

**INCORPORATED COUNTY OF LOS ALAMOS**

**BID AND SPECIFICATIONS**



**LOS ALAMOS**

**Kinnikinnik Park Trail ADA Improvements Project**

**INVITATION FOR BIDS NO. IFB24-57**

Advertised on January 19, 2024, in the Albuquerque Journal and LA Daily Post and Santa Fe  
New Mexican

Prepared by:

Wendy Parker 1/16/2024  
Wendy Parker

Authorized for release by:

Cory Styron 1/12/2024  
Cory Styron, Community Services Director

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## 1.0 BIDDING PHASE

### 1.1 Invitation for Bids

The Incorporated County of Los Alamos (“County”) reserves the right, in its sole discretion, to accept any bid and to reject any or all bids.

Bids are invited from all responsible bidders.

Bid documents for this project may be obtained by contacting the Office of Purchasing Officer at:

Kat Brophy, Management Analyst  
Los Alamos County  
Procurement Division  
101 Camino Entrada, Building 3  
Los Alamos, New Mexico 87544  
505-662-8127 or cell 505-709-5030

Copies of Bid Documents and Addenda will be made available for review wherever Solicitation Documents are on file for that purpose. Hard copies may be made available provided advance payment is made to the Office of the Purchasing Officer. Bid details can be found on the County website under “Open Bids & RFPS”.

<https://www.losalamosnm.us/Doing-Business/Procurement/Open-Solicitations>

Bids in response to this Invitation for Bids (IFB), may be submitted either in paper form, in a sealed envelope, or electronically by email in PDF format.

1. **ELECTRONIC SUBMISSION:** Emails should be addressed to: [lacbid@lacnm.us](mailto:lacbid@lacnm.us).  
**Subject line must contain the following information: RESPONSE – IFB24-57 Kinnikinnik Park Trail ADA Improvements Project**

It is strongly recommended that a second, follow up email (without the Bid included or attached) be sent to confirm the Bid was received.

The body of the email **must** contain enough information for the identity of the Bidder to be clear, including company name, name of person sending the email, and contact information including email address and phone number.

Only emails with Bids received in the [lacbid@lacnm.us](mailto:lacbid@lacnm.us) email box prior to 2:00 p.m. MST, Tuesday, February 13, 2024.

Bids submitted by email will be opened only after the closing date and time stated in the solicitation document.

2. **PAPER FORM SUBMISSION:** Sealed bids, submit one (1) unbound original and one (1) copy, subject to the conditions set forth in the Instructions to Bidders and in the other

Solicitation Documents, will be received at the office of the Los Alamos County Purchasing Officer, 101 Camino Entrada, Building 3, Los Alamos, New Mexico, until 2:00 p.m. MST, Tuesday, February 13, 2024, and then publicly opened for the following project:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

Bid security in the amount of five percent (5%) of the bid must accompany the bid. Such cash, certified checks or bid bonds will be returned to all except the three finalist bidders within three days after the opening of bids. The remaining cash, checks and bid bonds will be returned promptly after the County and the accepted Bidder have executed the contract, or if no award has been made within sixty (60) days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as Bidder has not been notified of the acceptance of Bidder's bid. In submitting their Bid Bond, it is not mandatory that Bidders use the Bid Bond form provided in the packet. The County strongly encourages all Contractors to use this form, but if the contractor elects not to use it, the Bid Bond must be submitted on a form acceptable in the construction industry and approved by the County Project Manager in advance of the bid due date.

**A Non-Mandatory Pre-Bid Conference will be held on Monday, February 5, 2024, at 11:00 a.m. via Microsoft Teams. Please contact Kat Brophy (please see contact information below) to receive link via Addendum for the Pre-bid Conference.**

This conference is held to answer questions from the prospective bidders as well as familiarize bidders with the project. Questions regarding the meaning of plans, specifications or other documents related to the project should be submitted in writing prior to the pre-bid conference. The County will preside at the pre-bid conference and provide for the recording and distribution of minutes. The pre-bid conference will include, but not be limited to the following:

1. Discussion of schedule for procurement, progress, values for progress payments and submittals.
2. Critical work sequencing and priorities.
3. Use of construction site premises, storage areas, office areas, security, cleaning, and County's needs.
4. Transmittal, review, and distribution of submittals.
5. Field decision process.
6. Maintain record documents.
7. Public Information.

Questions and interpretations of the bid shall be addressed to:

Wendy Parker  
Project Manager  
Community Services Department  
101 Camino Entrada, Building 5  
Los Alamos, New Mexico 87544  
Phone Number: 505-663-1771  
Email: [wendy.parker@lacnm.us](mailto:wendy.parker@lacnm.us)

Any questions must be received in writing at least six (6) days prior to the date fixed for the opening of bids. Failure of any bidder to receive any addendum or interpretation shall not relieve such bidder from any obligation under its bid as submitted. All addenda so issued shall become part of the solicitation documents.

The County reserves the right to issue addenda to the solicitation documents including construction specifications and plans during the advertising period as provided in the solicitation documents. Bidders are responsible for determining if any addenda have been issued. The terms, bid and solicitation are interchangeable. Also, the terms of the contract and agreement are interchangeable.

For the County of Los Alamos Procurement Division:

By: Kat Brophy  
Title: Management Analyst  
Phone Number: 505-662-8127  
E-mail: [kat.brophy@lacnm.us](mailto:kat.brophy@lacnm.us)

SITE VISITS:

Visits to the site may be arranged for February 6, 2024, by Contacting Wendy Parker.

Phone Number: 505-663-1771  
Email: [wendy.parker@lacnm.us](mailto:wendy.parker@lacnm.us)

**1.2 Summary of Work**

**Incorporated County of Los Alamos  
 Bid Number: IFB24-57  
 Kinnikinnik Park Trail ADA Improvements Project**

This project is issued by and under the control of The Incorporated County of Los Alamos. The contracting office is the Community Services Department. The location of the project is in the County of Los Alamos, New Mexico.

It is the intent of the County to award a Contract for Base Bid construction of the Project as specified herein, however, the Alternate Bid Item listed in the Bid will be considered. Additionally, the County for budget considerations or convenience may wish to award the Alternate Bid item in place of the Base Bid item.

The summary of work is as follows, but is not limited to the following:

Pre-Bid Meeting	February 5, 2024
Bids Due	February 13, 2024
Bid Award	February 21, 2024
Pre-Construction Meeting	March 11, 2024
Notice to Proceed	March 15, 2024
Substantial Completion Date	August 12, 2024
Final Completion Date	September 10, 2024

Work to achieve Final Completion, including all Operations and Maintenance Manuals, final Certified Payrolls, As-built drawings, Warranty Certificates, Final Inspection, and other close-out documents by September 10, 2024.

The Incorporated City and County of Los Alamos (“County”) is situated at the foot of the Jemez Mountains on the Pajarito Plateau with an elevation ranging from 6,200 feet to 9,200 feet. Two distinct communities, Los Alamos Town site and White Rock, each with its own visitor center, are home to ~19,000 people. Los Alamos is mostly known for the historic accomplishments of its largest employer, Los Alamos National Laboratory, and continues to gain notice for its vast scenic assets and recreational opportunities.

Visit the Los Alamos County website ([www.losalamosnm.us](http://www.losalamosnm.us)) and the tourism website ([www.visit.losalamos.com](http://www.visit.losalamos.com)) for more information.

The work will be to improve 0.5-mile (2,640 feet) section of trail to an ADA Certified trail using standards for trail design and construction that meets the requirements for crusher fine trails as outlined in the Americans with Disabilities Act 1994 and 2010. The trail will begin at the Los Alamos Nature Center and head south to the rear of the Walkup Aquatic Center then head

westerly to the northern rear of the Walkup Center and follow the existing trail to create a loop that returns to the Nature Center. The proposed route is noted in the attached map. The trail is part of the County’s continuing effort to create an inclusive and inviting access to all members of the community. The main goal is to reduce any barriers that individuals with disabilities may encounter when utilizing the Kinnikinnik Park Trail.

Requirements are as follows:

**Surface.**

The trail tread surface, including resting intervals and passing spaces, shall be both firm and stable in accordance with Forest Service Trail Accessibility Guideline (FSTAG) 2013.

**Clear Tread Width.**

The clear tread width of the trail shall be at least 36 inches (915 mm). EXCEPTION: Where a condition for an exception prevents achieving the required width, the clear tread width may be reduced to 32 inches (815 mm) minimum. If the condition for an exception prevents achieving the reduced width of 32 inches, comply to the extent practicable.

**Slope.**

Trail running slopes (grades) and cross slopes shall comply with sections 7.4.3.1 and 7.4.3.2 of the ADA United States Forest Service (USFS) Standard.

**Running Slope (Grade).**

The running slope (grade) of trail segments shall comply with this section and shall be consistent over the distances cited.

Trail running slope (grade) of up to 1:20 (5 percent) is permitted for any distance.

The running slope of any segment of a trail shall not be steeper than 1:8 (12 percent).

No more than 30 percent of the total trail length may exceed a running slope (grade) of 1:12 (8.33 percent).

Where the running slope (grade) of a segment of a trail is steeper than 1:20 (5 percent), the maximum length of the segment shall be in accordance with Table 7.4.3.1, and a resting interval complying with 7.4.4 shall be provided at each end of the segment.

**Trail Running Slope (Grade) and Resting Intervals**

<b>Running Slope of Trail Segment</b>		<b>Maximum Length of Segment Between Resting Intervals</b>
<b>Steeper Than</b>	<b>But Not Steeper Than</b>	
1:20 (5 percent)	1:12 (8.33 percent)	200 feet (61 m)
1:12 (8.33 percent)	1:10 (10 percent)	30 feet (9 m)
1:10 (10 percent)	1:8 (12 percent)	10 feet (3050 mm)

**Cross Slope.**

The cross slope shall not exceed 1:20 (5 percent). Where the surface is paved or is elevated above the natural ground, the cross slope shall not be steeper than 1:48 (2 percent).

**Resting Intervals.**

Resting intervals shall comply with 7.4.4. Where the trail grade exceeds 1:20 (5 percent), resting intervals shall be provided as specified in Table 7.4.3.1.

**Length.**

The resting interval length shall be 60 inches (1525 mm) long minimum.

**Width.**

Where resting intervals are provided within the trail tread, resting intervals shall be at least as wide as the widest segment of the trail tread leading to the resting interval. Where resting intervals are provided adjacent to the trail tread, the resting interval clear width shall be 36 inches (915 mm) minimum.

**Slope.**

The slope of a resting interval shall not exceed 1:20 (5 percent) in any direction. Where the surface is paved or is elevated above the natural ground, the slope shall not be steeper than 1:48 (2 percent) in any direction.

**Turning Space.**

Where resting intervals are provided adjacent to the trail tread, a turning space complying with the Architectural Barriers Act Accessibility Standards (ABAAS) Section 304.3.2 shall be provided. Vertical alignment between the trail tread, turning space, and resting interval shall be nominally level. The trail tread, turning space, and resting interval may overlap.

**Passing Spaces.**

Trails with a clear tread width less than 60 inches (1525 mm) shall provide passing spaces complying with 7.4.5 at intervals of 1000 feet (300 m) maximum. A passing space must also be provided at the end of any segment of trail that meets the requirements of 7.4, if the full length of the trail does not meet the requirements. Passing spaces and resting intervals may coincide or overlap.

**Size.**

The passing space shall be either: A space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or the intersection of two trails providing a T-shaped space complying with ABAAS section 304.3.2 where the base and the arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection. Vertical alignment at the intersection of the trails that form the T-shaped space shall be nominally level.

**Slope.**

The cross slope of a passing space shall not exceed 1:20 (5 percent) in any direction.

**Non-complying Segment Ends.**

Where a segment of the trail does not comply with 7.4, a passing space shall be located at the end of each adjacent trail segment that does comply with 7.4.

**Tread Obstacles.**

Tread obstacles on trails shall not exceed 2 inches (50 mm) in height measured vertically to the highest point. Where the trail surface is paved or is elevated above the natural ground, tread obstacles shall not exceed ½ inch (13 mm) in height measured vertically to the highest point.

**Openings.**

Openings in trail tread surfaces, trail resting spaces, and trail passing spaces shall be small enough to prevent passage of a 1/2 inch- (13 mm-) diameter sphere. Where possible, elongated openings should be placed perpendicular, or as close to perpendicular as possible, to the dominant direction of travel.

Exception: Where openings that do not permit the passage of a ½ inch (6.4 mm) sphere cannot be provided due to a condition for an exception, openings that do not permit passage of a ¾ inch (19 mm) sphere shall be permitted.

**Protruding Objects.**

Constructed features, including signs, shall not extend into the trail tread more than 4 inches (100 mm) between 27 inches (685 mm) and 80 inches (2030 mm) above the surface of the trail.

**Trail Facilities.**

Where provided on trails, facilities shall comply with the applicable provisions of the Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG). Outdoor Recreation Access Routes (ORARs) are not required at or between facilities on trails; however, are desired and encouraged.

Exception- When the surface of the required clear ground space for trail facilities is not paved or is not elevated above the natural ground, slopes not steeper than 1:20 (5 percent) shall be permitted where necessary for drainage.

**Trailheads.**

7.4.10.1 Outdoor Constructed Features. Where provided within trailheads each outdoor constructed features such as parking spaces, toilets, or camp sites shall comply with the applicable portions of the FSORAG and ABAAS.

**Outdoor Recreation Access Routes (ORARs).**

At least one outdoor recreation access route complying with FSORAG section 2.0 shall connect the following places at trailheads: Accessible parking spaces or other arrival point; Starting point of the trail; and Accessible outdoor constructed features, elements, spaces, and facilities within the trailhead.

Exception 1. In alterations to existing trailheads, where a condition for exception prohibits compliance with a technical provision, the ORAR shall comply with FSORAG 2.0 to maximum extent practicable.

Exception 2. Where elements, spaces, or outdoor constructed features are altered at trailheads but the circulation path is not altered, an outdoor recreation access route shall not be required.

Exceptions will be vetted and approved/disapproved by the Community Services Director or his/her designee.

### **Trailhead Signs.**

Where new trailhead information signs are provided at trailheads on newly constructed or altered trails, they shall comply with 7.4.11.

**Clear Space.** Trailhead signs shall be located centered at the back of a 30-by 48-inch (760- by 1,220-millimeter) minimum clear floor or ground space. The clear space shall not overlap the trail width but may overlap a resting space or passing space. The slope of the clear space shall not exceed 1:20 (5 percent) in any direction.

### **Sign Contents.**

Where new trail information signs are provided at trailheads on newly constructed or altered trails, regardless of whether the trail is accessible, the signs shall include at minimum the following information:

- Length of the trail or trail segment
- Surface type
- Typical and minimum tread width
- Typical and maximum running slope
- Typical and maximum cross slope
- A statement that the posted information reflects the condition of the trail when it was constructed or assessed, including the date of the construction or assessment
- Where more extensive trail information is provided (e.g., an aerial map of the trail and related facilities), the location of specific trail features and obstacles that do not comply with the technical provisions in 7.4 should be identified and a profile of the trail grade should be included.

**Reach Ranges.**

If materials need to be obtained from or manipulated on a sign or kiosk, the sign or kiosk shall be designed to meet the reach ranges in section 308 of the ABAAS.

**Gates and Barriers.**

Where gates or barriers are constructed to control access to trails, gates and barriers shall comply with 7.4.12.

**Clear Width.**

Gate openings and openings in barriers for hiker passage shall provide a clear width of 36 inches (915 mm), complying with ODAAG, section 1017.3 Clear Tread Width.

**Gate Hardware.**

Gate hardware shall comply with operable controls requirements in ABAAS section 309.4 and 404.2.7.

Trail Materials, meeting ADA requirements, will be procured by Contractor.

The above referenced requirements can be found here:

US Forest Service - <https://www.fs.usda.gov/managing-land/trails/trail-management-tools/trailplans>

Accessibility Guidebook for Outdoor Recreation and Trails -

<https://www.fs.usda.gov/sites/default/files/Accessibility-Guide-Book.pdf>

Forest Service Trail Accessibility Guidelines -

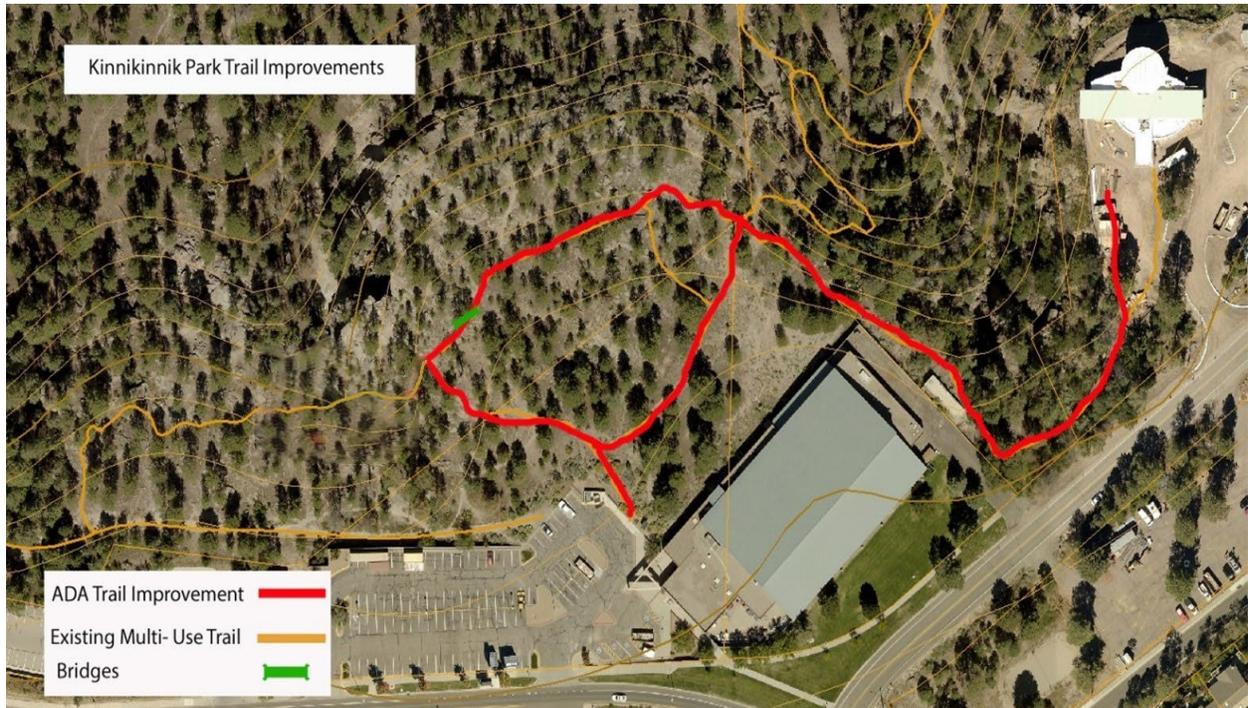
<https://www.fs.usda.gov/sites/default/files/FSTAG-2013-Update.pdf> US Forest Service Outdoor Accessibility Guide -

[https://www.fs.usda.gov/recreation/programs/accessibility/FSORAG\\_2013%20Update.1.pdf](https://www.fs.usda.gov/recreation/programs/accessibility/FSORAG_2013%20Update.1.pdf)

**Bid Alternatives:**

- a. Please provide a bid to improve .5-mile (2,640 feet) section of trail to an ADA Certified concrete trail using US Forest Service Standards for trail design and construction and meets the requirements for paved trails as outlined in the Americans with Disabilities Act 1994 and 2010, County may select the Alternate Bid option instead of the Base Bid.

**Project Map:**



### **1.3 Requirements for Bidders**

Bids must be made with the understanding and in accordance with these conditions for bidders:

#### **1.3.1 Bid Evaluation Criteria**

*Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total of life cycle costs. The IFB shall set forth the evaluation criteria to be used. Only criteria that are set forth in the IFB may be used in bid evaluation. Interviews are to be used only for the purpose of clarification. The final evaluation results shall be forwarded to the purchasing agent.

The evaluation criteria for this Bid are:

1. Accurate submission of Bid Response Documents
2. Cost

The County may make such investigations as deemed necessary to determine the ability of the Bidder, and any prospective subcontractors of the Bidder, to perform the work, and the bidder shall furnish to the County all such information and data for this purpose as the County may reasonably request. The County reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the County that such Bidder is properly qualified to carry out the obligations of the Contract and to timely complete the work contemplated herein. Conditional bids may not be accepted in the sole discretion of the County.

#### **1.3.2 Required Bid Response Documents**

The bidder shall follow the instructions described in Section 1.1 Invitation for Bids.

#### **1.3.3 The Bidder's Bid Response Documents**

The following documents must be completed and included in this preferred order:

1. Copy of Bidder's State of New Mexico Contractor's License(s) with proper classifications.
2. Bid Form (Section 1.5.1)
3. Alternatives and Allowances, if applicable (Section 1.5.2)
4. List of Subcontractors (Section 1.5.3).
5. Bid Bond (Section 1.5.4)
6. Campaign Contribution Form (Section 1.5.5)

7. Certification – Debarment, Suspension, and other Responsibility Matters (Section 1.5.6)
8. Permanent Main Office Address of Company (Section 1.5.7) – Note requirement to provide a Certificate of Good Standing and Compliance from the New Mexico Secretary of State, if incorporated.
9. Authorization for Verification of Information (Section 1.5.8)
10. Provide proof of online registration and payment of \$400.00 for Certificate of Contractors Registration (Section 1.5.9) with New Mexico Department of Workforce Solutions.

The County may consider a bid to be non-responsive or non-responsible if the Contractor fails to include any of the items described in items 1 through 10, above.

#### **1.3.4 Liquidated Damages for Failure to Enter into Contract**

The successful Bidder, upon failure or refusal to execute and deliver the Contract and required Bonds within ten (10) calendar days after Bidder has received the Notice of Award, shall forfeit the Bidder's Bond to the County, as liquidated damages for such failure or refusal, the bid security deposited with Bidder's bid.

#### **1.3.5 Conditions of Work**

Each bidder must inform itself fully of the conditions relating to the construction of the Project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of its obligation to furnish all material and labor necessary to carry out the provisions of the Contract. Insofar as possible, the Contractor in carrying out the Work must employ such methods or means as will not cause any interruption of, or interference with the Work of any other contractor, or the daily operations of County offices. The Work in this Contract will be carried out during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday unless otherwise scheduled with and approved by the County. Noise Ordinance Waivers are required for work occurring between the hours 9:00 p.m. and 7:00 a.m.

#### **1.3.6 Addenda and Requests for Interpretation**

- A. No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally and bidders understand that no oral interpretation once made may be relied upon. Every request for such interpretation shall be in writing addressed to the Project Manager. Requests for interpretation must be received at least six (6) working days (Monday-Friday) prior by 5:00 p.m. to the date fixed for the opening of bids. Failure of any bidder to acknowledge all addenda on the Addendum Acknowledgement Form shall not relieve such bidder from any obligation under its bid as submitted and may render the bidder non-responsive. Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall specifically acknowledge their

receipt in the bid. All addenda so issued shall become part of the Contract documents.

- B. Addenda will be e-mailed to all who are known by the County to have requested Bid Documents.
- C. No Addenda will be issued later than four (4) working days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

### **1.3.7 Power of Attorney**

Attorneys-in-Fact who sign any required bonds must file with each bond a certified properly executed and dated copy of their power of attorney.

### **1.3.8 Obligation of Bidder**

Complete sets of Solicitation Documents must be used in preparing Bids; neither the County nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Solicitation Documents.

The Submission of a bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of the Bid, which without exception the Bid is premised upon performing and furnishing the Work required by the Solicitation Documents. The bidder will be required to establish to the satisfaction of the County the qualifications and capability of the persons proposed to furnish and perform the Work described in the Solicitation documents. Contractor, by signing the Bid also acknowledges that the Contract Time is reasonable for the weather and climactic conditions.

Prior to the award of the Contract, the County will notify the bidder in writing if the County after due investigation has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid, or (2) submit a substitute person or entity acceptable to the County with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost, if any, occasioned by such substitution. The County may accept the adjusted bid price. In the case that the adjusted price makes them no longer the low bidder, County reserves the right to award to the subsequent low bidder. In the event of withdrawal, bid security will not be forfeited. Persons proposed by the Bidder and to whom the County has made no reasonable objection must be used to perform the Work for which they were proposed and shall not be changed except with the prior written consent of the County.

### **1.3.9 Safety Standards and Accident Prevention**

With respect to all work performed under this contract, the Bidder shall:

- A. Comply with the standard provisions of the most current versions of all applicable laws, rules and regulations that apply to the work contracted for.

- B. Provide a Safety Management Plan to the County after award acceptable to the Project Manager (see Section 3).

### **1.3.10 Substitutes or Brand Name or Equal**

During solicitation, it may be determined that a “brand name or equal” is in the County’s best interests, and in many cases is the “Basis of Design” for a particular item or system. The Contractor may provide a substitution of a particular item or items. The Contractor shall provide proof that the proposed substitute item is equal to or exceeds the basis of design. The County reserves the right to accept or reject the substitution at its sole discretion.

All re-design and evaluation costs that may be incurred shall be paid by the Contractor.

The Contractor shall provide an alternate bid based on the original plans and specifications and shall provide separately the cost for the substituted item, which the County reserves the right to accept or reject.

The procedure for submission of any such application by Contractor and consideration by County is set forth in Section 3.

### **1.3.11 Bids to Remain Subject to Acceptance**

All bids will remain subject to acceptance for sixty (60) calendar days after the day of the Bid Opening. The County may, at its sole discretion, release any Bid and return that Bidder’s Bid Security prior to that date. County may request an extension, agreeable to both the Bidder and County.

### **1.3.12 Withdrawal of Bids**

- A. Bidder may withdraw its bid by written notice and received by Purchasing Agent prior to bid opening.
- B. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interests of the County or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if: (1) The mistake is clearly evident on the face of the bid document; or (2) The Bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

### **1.3.13 Acceptance or Rejection of Bids**

The County reserves the right to accept any bid, reject any or all bids without cause, to waive any or all technicalities in any Bid in the interest of the County and the right to reject all non-conforming, non-responsive or conditional Bids.

### **1.3.14 Award**

Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship,

delivery and suitability for a particular purpose and the Contract shall be awarded on the basis of the lowest responsible and responsive bidder in accordance with Chapter 31-101 (i) of the Los Alamos Code of Ordinances.

### **1.3.15 Registration of Contractors and Subcontractors**

Any bidder that submits a bid valued at more than the dollar amount required by the New Mexico Public Works Minimum Wage Act [13-4-11 through 13-4-17 NMSA 1978] and the New Mexico Subcontractors Fair Practice Act [13-4-31 through 13-4-43] for a public works project shall be registered with the labor and industrial division of the labor department. County will not accept bids for a public works project subject to the New Mexico Public Works Minimum Wage Act from the contractor that does not provide proof of required registration for itself and its subcontractors.

### **1.3.16 Procurement Preferences**

**Notice to all potential bidders: Procurement Preference does not apply to this solicitation.**

## **1.4 Notices to Contractors**

### **1.4.1 Applicable Law**

Work shall be performed in accordance with applicable federal, state and local laws (Los Alamos County Code of Ordinances, Section 31.2 Procurement Code).

### **1.4.2 Gross Receipts Tax**

All bids submitted are to exclude the applicable gross receipts taxes. County will pay the applicable taxes to the Contractor including any increase in the applicable taxes becoming effective after the execution date of the contract. The applicable gross receipts taxes will be shown as a separate amount on each payment application made under the contract. The Contractor is responsible for payment to the State of New Mexico for all gross receipt's taxes collected.

### **1.4.3 Minimum Wage Rates**

Pursuant to the New Mexico Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17 NMSA 1978 (comp.) all certified payrolls submitted must contain required information as stated on the pertinent information sheet of the Wage Rate Decision issued on said project.

The Contractor, Sub-contractor and all tiers shall provide the Statement of Intent to Pay Prevailing Wages form to County's Project Manager.

### **1.4.4 Work Conditions**

This contract will be performed in and adjacent to Los Alamos County for the contract duration specified in the Contract. The Contractor shall be aware of the conditions that may normally exist within the project area during performance of the work. Those conditions may include but are not limited to:

- Extended freezing temperatures,

- Intense rainfall events,
- Snowfall and snow accumulation,
- Limited direct sunlight.

Delays due to normal weather conditions are not eligible for time extensions and/or additional compensation. Contractor is required to protect their work and the project from normal weather events. Unusual weather-related time extensions may be awarded by the County pursuant to an approved change order at the County's sole discretion. Please refer to Section 2, Contract Articles 2 and 3.

#### **1.4.5 Public Information**

The Contractor is required to be an active participant in the execution of the Public Information and Involvement Plan (PIIP) to be developed by the County. County retains edit and approval rights to any documents being released to the public and requires two (2) working days advance notice to allow for said edit/approval. Contractor will perform/assist the County in successfully implementing PIIP activities that may include, but not be limited to:

- Weekly updates by Wednesday noon of traffic control expected on this project for the following week;
- Placement of door hangers 48 hours prior to any Utilities service disconnections (gas, water, and electric);
- Five (5) working days advance notification to Project Manager regarding impacts to school or transit bus stops and safe routes to schools;
- Inform businesses and residents 48 hours prior to direct impacts during construction.
- County policy is to advertise in the local newspaper in advance of posting traffic control signs or barricades. The Contractor will submit information concerning posting of traffic control signs and barricades at least five (5) working days in advance to the Owner.

Project Manager shall determine the need, size, and location for a project sign(s) that may include the following:

1. Project name
2. Contractor business name and contact information
3. Budget
4. Project start and end months
5. County Project Manager contact information
6. A rendering of the improvement(s) if available.

#### **1.4.6 Performance and Labor and Material Bonds Requirements**

**Per County Procurement Code, Sec 31-172: When a construction contract is awarded in excess of the state prevailing wage threshold, the following bonds or security shall be delivered to the county and shall become binding on the parties upon the execution of the contract:**

Performance Bond and Labor-Materials Bond shall be executed after receipt of Notice of Award to the successful bidder in an amount equal to one hundred percent (100%) of the total amount payable by the terms of the contract. Bonds must be prepared and executed on the Performance Bond and Labor-Materials Bond forms attached hereto or on such other forms as may be approved in writing by the Owner. Surety shall be by a company licensed to do business in the State of New Mexico and acceptable to the Owner.

## 1.5 Bid Forms

### This Bid Submitted to:

**Incorporated County of Los Alamos  
Bid Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

- A. The undersigned Bidder proposes and agrees, if this Bid is accepted; to enter into an agreement with County in the form included in the solicitation documents; to perform and furnish all work as specified or indicated in the solicitation documents for the contract price; and within the contract time indicated in this bid; and in accordance with all of the other terms and conditions of the solicitation documents.
- B. Bidder accepts all the terms and conditions of the solicitation and Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for sixty (60) calendar days after the day of the Bid opening. Bidder will sign and submit the Agreement and the Performance, Labor and Material Bonds, Certificate of Insurance and all other documents required by the Solicitation Requirements within ten (10) calendar days after receipt of the County's Notice of Award.
- C. Notice to Proceed shall be issued no later than twenty-eight (28) calendar days from Notice of Award.
- D. Bidder shall promptly provide written notice to the County of any conflicts, errors, or discrepancies discovered in the solicitation documents.
- E. Bidder represents this Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid. Bidder has not solicited or induced any person, firm or corporation to refrain from bidding, and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over County.
- F. By submitting the bid, each bidder represents to the County that it has inspected the site, is familiar with local conditions that may affect cost, progress, performance or furnishing of the work, has considered federal, state, and local laws and regulations that may affect cost, progress, performance, or furnishing of the Work and has read and is thoroughly familiar with the technical specifications and plans and the Solicitation and Contract document (including all addenda). The failure or omission of any such bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to its bid.
- G. Bidder represents that a complete set of Solicitation Documents was used in preparing the Bid and acknowledges that the County assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Solicitation Documents.

- H. Bidder represents that the submission of this bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of the Bid, that without exception the Bid premised upon performing and furnishing the Work required by the Solicitation Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Solicitation Documents, and that the Solicitation Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- I. The Solicitation Documents are intended to describe a functionally complete project to be constructed in accordance with the Contract Documents. Any work, materials, or equipment that may reasonably be inferred from the documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically required. When words or phrases which have a well-known technical or construction industry or trade meanings are used to describe work, materials or equipment, such words or phrases shall be interpreted in accordance with those meanings. Clarifications and interpretations of the Technical Specifications and Contract Drawings shall be issued by the County.
- J. The quantities appearing in the Bid Schedule, Plans, or other contract documents are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of Work performed and accepted, or materials furnished in accordance with the contract.
- K. The County reserves the right to obtain a cost breakdown of specific Unit Bid items having lump sum (LS) units of measure during the review process.

**1.5.1 Bid Form**

Bidder agrees to perform the work for the following prices:

The TOTAL amounts of the below bid (excluding NMGRT) shall be shown in both words and figures. In case of discrepancies, the amount shown in words will govern.

**Base Bid:**

The Bidder affirms that the work will be performed in accordance with the US Forest Service Standards and ADA requirements.

The Bidder agrees to perform all of the work described as the Base Bid in the Solicitation Documents for an amount determined as follows:

<b>BASE BID 1 – Crusher Fine Trail – Lump Sum</b>	\$
---	----

Total Bid Amount written in words:

\_\_\_\_\_ Dollars

Note: The bid amount shall exclude state gross receipts tax or local option tax, but shall include all other costs of doing business, including but not limited to bonds, insurance and profit. The Incorporated County of Los Alamos is required to pay the applicable tax including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable gross receipts tax or local option tax shall be shown as a separate amount on each billing or request for payment under contract. The Incorporated County of Los Alamos reserves the right to reduce or add quantities.

**1.5.2 Alternates and Allowances**

<b>BID ALTERNATE 1 – Concrete Trail - Lump Sum</b>	\$
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Total Bid Amount written in words:

\_\_\_\_\_ Dollars

Note: The bid amount shall exclude state gross receipts tax or local option tax, but shall include all other costs of doing business, including but not limited to bonds, insurance and profit. The Incorporated County of Los Alamos is required to pay the applicable tax including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable gross receipts tax or local option tax shall be shown as a separate amount on each billing or request for payment under contract. The Incorporated County of Los Alamos reserves the right to reduce or add quantities.

This bid is hereby submitted by the undersigned, in full conformity with the solicitation documents, and warrant that the undersigned. Has the authority to bind the General Contractor for the work.

**I the undersigned have reviewed the Summary of Work and certify that the following licenses are required to fully perform the Summary of Work and that I as the General Contractor and/or Sub-contractors to be employed under this contract possess such New Mexico Contractor’s License Number(s) and Classification(s):**

Contractor	License Number(s)	Classification(s)

\_\_\_\_\_  
Signature of Agent authorized to sign on behalf of Bidder

\_\_\_\_\_  
Printed Name & Title of Agent

\_\_\_\_\_  
Organization’s Legal Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Federal Tax I.D Number

\_\_\_\_\_  
NM CRS # (if located in-state)

\_\_\_\_\_  
N.M. Preference Certification (attach copy)

\_\_\_\_\_  
Los Alamos County Business License Number: (Required to perform work in the County)

NOTE: The bid amount shall exclude state gross receipts tax or local option tax, but shall include all other costs of doing business, including but not limited to bonds, insurance, and profit. The Incorporated County of Los Alamos is required to pay the applicable tax including any increase in the applicable gross receipts tax or local option tax shall be shown as a separate amount on each billing or request for payment under the contract. The Incorporated County of Los Alamos reserves the right to reduce or add quantities.

**NON-DISCRIMINATION POLICY:** This Company does not discriminate on the basis of color, national origin, sex, religion, age, and disabled status in employment or the provision of services.

### **1.5.3 List of Subcontractors**

All Bidders shall comply with the Subcontractor's Fair Practices Act Chapter 13-4-31 to 13-4-43 NMSA 1978, Laws of New Mexico

Pursuant to Section 13-4-34, based on the Architect/Engineer estimate, list all subcontractors including second and third tiers performing work in excess of \$ 5,000.00.

No modifications to the list of subcontractors can be made at any time during the performance of the Work contemplated by the Agreement without the prior written approval of the County.

Contractor & Contact Name:	License # Classification:	E-mail:	Phone:  Fax:	Address:	Work to be Performed:

**1.5.4 Bid Bond**



## LOS ALAMOS

As Principal, hereinafter called the Principal or Contractor, and \_\_\_\_\_, a corporation duly organized and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to do business in the State of New Mexico, as Surety hereinafter called the Surety, are held and firmly bound unto the County of Los Alamos, New Mexico, as Obligee, hereinafter called the County, in the sum of five percent of the Bid, \_\_\_\_\_ dollars - \$ \_\_\_\_\_

for the payment of which sum Principal and Surety bind themselves, their heirs, executors, and administrators, successors, and assigns, jointly and severally. The conditions of this Bond are such that whereas the Principal has submitted the accompanying Bid for:

**Incorporated County of Los Alamos  
Bid Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

which Bid is by reference made a part hereof and is hereinafter referred to as the Bid and, if the County shall accept the Bid of the Principal and the Principal shall enter into a Contract with the County in accordance with the terms of such a Bid, and give such bond or bonds as may be specified in the bidding or solicitation documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, and shall in all other respects perform the agreement created by the acceptance of said Bid, or in the event of the failure of the Principal to enter into such contract and give such bond and bonds, if the Principal shall pay the County the difference between the amount specified in said bid and such larger amount which the County may in good faith

**Bid Bond continued**

contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way Impaired or affected by any extension of the time within which the County may accept such Bid; and said Surety does hereby waive notice of any such extension.

SIGNED AND ATTEST this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRINCIPAL:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

SURETY:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

### 1.5.5 Campaign Contribution Form

**Incorporated County of Los Alamos  
Bid Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

**\*This document must be returned with IFB submittal.\***

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two (2) years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two (2) years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds TWO HUNDRED FIFTY DOLLARS (\$250.00) over the two (2) year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

**“Applicable public official”** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money or other things of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**“Contract”** means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

**“Family member”** means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

**“Pendency of the procurement process”** means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

**“Person”** means any corporation, partnership, individual, joint venture, association or any other private legal entity.

**“Prospective contractor”** means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

**“Representative of a prospective contractor”** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

**DISCLOSURE OF CONTRIBUTIONS:** (Report any applicable contributions made to the following - COUNTY COUNCILORS: Denise Derkacs; Melanee Hand; David Izraelevitz; David Reagor; Randal Ryti; Sara Scott; and Sean Williams.)

Contribution Made by: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250.00) WERE MADE to an applicable public official by me, a family member or representative.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

**1.5.6 Certification - Debarment, Suspension, and other Responsibility Matters**

**Incorporated County of Los Alamos  
Invitation for Bids Number IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

The Bidder certifies to the best of its knowledge and belief that it, its principals and its sub-contractors:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, Local Entity;
- B. Have not within a three (3) year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction. Violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property
- C. Are not presently indicted for otherwise criminally or civilly charged by a Federal, State, or Local Entity with commission of any of the offenses enumerated in paragraph (1) (B) of this certification; and
- D. Have not within a three (3) year period preceding this application/bid had one or more public transactions (Federal, State, or Local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this bid or termination of the award.

In addition, under 18 U.S.C. Sec. 10 01, a false statement may result in a fine up to \$ 10,000 or imprisonment for up to five (5) years, or both if Federal funding is used.

\_\_\_\_\_  
Typed Name & Title of Authorized Representative

\_\_\_\_\_  
Signature of Bidder's Authorized Representative

\_\_\_\_\_  
Date

Comments:

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Date: \_\_\_\_\_

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

\_\_\_\_\_ confirms that all proposed subcontractors are not currently

Contractor

suspended or debarred from conducting business with any City, State, County, or Federal Government entities.

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Name and Title of Authorized Representative

Date

--- OR ---

I am unable to certify the above for the following reasons:

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**1.5.7 Permanent Main Office Address of Company**

Organization's Legal Name	Founding Date
Physical Address	
Mailing Address	
City, State, Zip Code	

***If incorporated, attach a Certificate of Good Standing from the Public Regulation Commission.***

**1.5.8 Authorization for Verification of Information**

\_\_\_\_\_ hereby authorizes any person, firm, or corporation to furnish  
Contractor  
any information requested by Los Alamos County or designated representative, to verify any and all information submitted with or relevant to this bid.

\_\_\_\_\_  
Printed Name and Title of Authorized Representative

\_\_\_\_\_  
Signature Date

Sec. 31-261. - State and local preferences.

- (a) *Definitions.* For the purposes of this section:
  - (1) The terms "resident business" and "resident veteran business" shall be defined as set out in NMSA 1978, § 13-1-21;
  - (2) The term "local" as applied to a business shall mean that it meets the requirements of the above definition, maintains its principal office and place of business in Los Alamos County, and has a required Los Alamos County business license.
- (b) *Requirements for preference qualification.* The chief purchasing officer shall determine if a preference is applicable to a particular bid or offer on a case-by-case basis. A bidder or offeror must submit a written request for preference, with a copy of the state-issued preference certificate, with its bid or proposal to qualify for this preference.

- (1) If a corporation, it shall be incorporated in New Mexico and maintain its principal office and place of business in the state;
  - (2) A person shall have qualified with the state chief purchasing officer as a resident business or resident veteran business and obtained a certification number as provided in NMSA 1978, § 13-1-22.
- (c) *Preference factor.*
- (1) The preference factor for qualifying resident and local businesses applied to bids and proposals shall be five percent.
  - (2) The preference factor for qualifying resident veteran businesses shall be in accordance with the requirements set forth in NMSA 1978, § 13-1-21.
- (d) *Invitations for bids.* When bids are received, the price quoted by the qualifying vendor shall be multiplied by 0.95. After application of the preference factor, the contract shall be awarded to the lowest bidder. If one or more low prices are equal, the bid shall be awarded with respect to the next category of offerors listed below, and the next, until an offer qualifies for award. The priority of categories of offers is as follows:
- (1) Local business;
  - (2) Resident business.
- (e) *Requests for proposals.* When proposals are received, the total evaluation score with or without the cost factor of each proposal received from a qualifying vendor shall be multiplied by 1.05. After application of the factor, the contract shall be awarded to the highest score. If one or more scores are equal, the same procedure shall be followed with respect to the next category of offerors listed, and the next, until an offer qualifies for award. The priority of categories of offerors is the same as listed in subsection (d) of this section.
- (f) *Exemptions from preferences.* The resident and local preference specified in this article shall not be applied:
- (1) To requests for qualifications;
  - (2) To any purchase of goods or services in excess of \$500,000.00;
  - (3) When the expenditure of federal funds designated in whole or in part for a specific purchase is involved; or
  - (4) When the expenditure of grant funds, a condition of which prohibits a local preference, is involved.

(Ord. No. 02-098, § 2, 12-2-2008; Ord. No. 02-305, § 8, 2-25-2020)

Are you requesting Preference?

YES       NO

**By answering “yes,” the bidder or offeror is submitting a written request for preference.**

**A Bidder or Offeror must submit a copy of the state-issued preference certificate with its bid or proposal to qualify for this preference.**

### 1.5.9 Certificate of Contractors Registration

## Sample *Certificate of Contractor Registration*



This is to certify that

**XYZ Company, Inc.**

**1234 Main Street**

ALBUQUERQUE, NM, 87109-5564

has registered with the Department of Workforce Solutions

**Registration Date:** 01/01/2017

**Registration Number:** 123456789

**This certificate does not show the current status of the company.  
To see the current status for this company please go to the Public Works  
and Apprenticeship Application (PWAA) at  
<https://www.dws.state.nm.us/pwaa>**

## 2.0 AWARD PHASE

### 2.1 Award Forms

#### 2.1.1 Notice of Award



LOS ALAMOS

#### NOTICE OF AWARD AND IDENTIFICATION OF COUNTY'S DESIGNEE

To: \_\_\_\_\_

Address: \_\_\_\_\_

Project Description:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

#### Notice of Award:

The County has considered the Bid submitted by you for the above described Project in response to its Invitation for Bids dated \_\_\_\_\_, 2024.

You are hereby notified that your Bid has been accepted subject to your executing the Agreement and furnishing the required Contractor's Performance Bond, Labor and Materials Payment Bond and required Certificates of Insurance, within ten (10) calendar days from the date of receipt of the Notice of Award.

You are hereby notified that the schedule required per Section 3, Schedules, Reports, and Records will be required to be submitted and accepted prior to Notice to Proceed being issued.

The following documents are provided with the Notice of Award: Two (2) copies of the Agreement, Performance Bond and Labor and Materials Payment Bond.

**Notice of Award continued**

If you fail to sign and return to County's Designee said Agreement, and to furnish said Bonds within ten (10) days from the receipt of this notice, the County will be entitled to consider all your rights arising out of the County's acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The County will be entitled to such other rights as may be granted by law.

**County's Designee:**

The Incorporated County of Los Alamos (County) designates \_\_\_\_\_ as the County's Designee in connection with the performance of the work contemplated in the Contract, dated \_\_\_\_\_, between the County and \_\_\_\_\_ (Contractor).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Incorporated County of Los Alamos

\_\_\_\_\_  
Steven Lynne  
County Manager

**2.1.2 Receipt of Notice of Award**



**LOS ALAMOS**

Receipt of the above Notice of Award is hereby acknowledged by:

\_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

for the following project:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

CONTRACTOR:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2.1.3 Performance Bond**



**LOS ALAMOS**

**Bond No.** \_\_\_\_\_

We as Principal, hereinafter referred to as Contractor, and \_\_\_\_\_ a corporation organized and existing under and by the virtue of the laws of the State of \_\_\_\_\_ and authorized to do business in the State of New Mexico, hereinafter called Surety, are held and firmly bound unto the Incorporated County of Los Alamos, hereinafter referred to as County, in the penal sum of one hundred percent (100%) of the Contract Price of \_\_\_\_\_ dollars (\$\_\_\_\_\_), as may be adjusted by Change Order, inclusive of applicable gross receipts taxes in lawful money of the United States of America, for the payment of which sum Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are such that, whereas, Contractor has been awarded and has agreed to enter into a certain Contract with the Incorporated County of Los Alamos, to which this Performance Bond will be attached and incorporated therein, for performance of Work or services on Project specifically described in the Contract document for:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

and if Contractor shall perform and complete all of the undertakings, covenants, terms, and obligations of said Contract during the original term thereof, and any extensions which may be granted by the County with or without notice to the Surety, and if Contract shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the County from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the County all outlay and expenses which the County may incur in making good any default, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

**Performance Bond Continued**

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due, except that, with respect to express guarantees of a longer term, a suit thereon must be initiated within six (6) months following the expiration of said express guarantees, if any.

The Surety acknowledges that said Contract may contain express guarantees and agrees that said guarantees, if any, are covered by the Surety's obligation hereunder.

Right of action with respect to any express guarantees, if any, in said Contract shall accrue following completion and formal acceptance of the work under said contract.

The right to sue on this bond accrues only to the contracting agency and the parties to whom New Mexico Statutes Annotated, 1978 Comp. 13-4-18 through 13-4-20, as amended, grant such right; and such right shall be exercised only in accordance with the provisions and limitation of said statutes.

PROVIDED, FURTHER, that Surety, for value received hereby stipulates and agrees that no change, extensions of time, alteration or addition to the terms of Contract. The Agreement, or the work to be performed thereunder, or the Contract Documents accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alternation or addition to the terms of the Contract.

PROVIDED, FURTHER, that no final settlement between the County and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument may be executed in two counter-parts, each one of which shall be deemed as an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The undersigned state that they have the authority to enter into said Contract.

**CONTRACTOR AS PRINCIPAL:**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**SURETY:**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

**2.1.4 Payment (Labor and Materials) Bond**



**LOS ALAMOS**

Payment (Labor and Materials) Bond for the Protection of all Persons Supplying Labor and Material to the Contractor or its Sub-contractors

Bond No. \_\_\_\_\_

We \_\_\_\_\_ as Principal, hereinafter called the Contractor, and \_\_\_\_\_, a Corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_, and authorized to do business in the State of New Mexico, hereinafter called the Surety, are held and firmly bound unto the Incorporated County of Los Alamos as Obligee, hereinafter the County , in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in the penal sum of one hundred percent (100%) of the Contract Price of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), as may be adjusted by Change Order, inclusive of applicable gross receipts taxes in lawful money of the United States of America, for the payment of which sum Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

Payment (Labor and Materials) Bond is for the Protection of all Persons Supplying Labor and Material to the Contractor or its Sub-contractors

WHEREAS, Contractor has agreed to enter into the Contract described as follows:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

Which contract is by reference made part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Contractor shall pay as they become due, all just claims for labor performed and materials and supplies furnished upon or for the work under said contract, whether said labor be performed and materials and supplies be furnished under the original contract or any contract thereunder, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, subject, however to the following conditions:

The right to sue on this bond accrues only to the Contracting Agency and the parties to whom Section 31-173 Los Alamos County Code of Ordinances grant such right; and any such right shall be exercised only in accordance with the provisions and limitations of said ordinance.

PROVIDE, FURTHER, that the Surety, for value received hereby stipulates and agrees that no change, extensions of time, alteration, or addition to the terms of the Contract, or to the Work to be performed thereunder, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract.

PROVIDE, FURTHER, the County shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have no obligations to make payments to give notices on behalf of or otherwise have obligations to Claimants. The Surety hereby waives notice of any change, including changes of time, to the Contractor or to related subcontracts, purchase orders and other obligations.

SIGNED AND SEALED ON this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

CONTRACTOR AS PRINCIPAL:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

SURETY'S AUTHORIZED NEW MEXICO AGENT:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

This bond is issued simultaneously with Performance Bond in favor of County for the faithful performance of the contract.

## 2.1.5 Insurance Requirement



# LOS ALAMOS

- A. Contractor shall purchase and maintain such liability and other insurance including completed operations insurance for the Work being performed and furnished and will provide protection from claims set forth which may arise out of or result from Contractor's performance and furnishing of the Work being performed and furnished and will provide protection from claims set forth which may arise out of or result from Contractor's performance and furnishing of the Work and Contractor's other obligations under the Solicitation Documents, whether it is to be performed or furnished by Contractor, any Subcontractor or Supplier or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable. Insurance requirements are as follows:
  - A.1.1. Comprehensive and General Liability Insurance
  - A.1.2. \$1,000,000 per occurrence and a combined single limit of at least Two Million Dollars (\$2,000,000) aggregate Bodily Injury and Property
  - A.2. Motor Vehicle Insurance
    - A.2.1. Same limits as Comprehensive General Liability Insurance whether for:
      - A.2.1.1. Owned or leased motor vehicles; or non-owned or hired vehicles
  - A.3. Worker's Compensation Insurance
    - A.3.1. The Contractor shall also be required to provide proof of full compliance with New Mexico State Worker's Compensation Laws
  - A.4. Property, Fire, and All Risk Insurance
    - A.4.1. Contractor shall purchase and maintain until final payment, property insurance upon the Work at the site to the full insurable value thereof.
    - A.4.2. This insurance shall insure against the perils of "all risk" insurance for physical loss and damage, and shall include damages, losses, and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys, and other professional). If not covered under the "all risk" insurance, Contractor shall purchase and maintain similar property insurance on

portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.

- B. The Contractor, prior to signing the Contract, shall provide proof of insurance coverage, which is satisfactory to the County, in the County's sole discretion, and copies of same to the County which shall remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective Work.

- B.1. Insurance Terms and Conditions

- B.1.1. The following statement shall be included on the certificate of insurance: "The Incorporated County of Los Alamos is named as additional insured regarding General Liability, Automobile Liability, and Professional Liability if required, for

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

- B.1.2. The insurance shall provide that the County will be notified as soon as possible in the event of cancellation.

- B.2. Renewal of Insurance

- B.2.1. Evidence of renewal of insurance policies shall be provided to the County no less than forty-five (45) days prior to expiration date.

- B.3. Subcontractors

- B.3.1. Contractor shall ensure all of its subcontractors meet all insurance requirements.

- B.4. Receipt and Application of Insurance Proceeds

- B.4.1. Any insured loss under the policies of insurance required of Contractor will be adjusted with County and made payable to County as fiduciary for the insured's, as their interests may appear, subject to the requirements of any applicable loan clause. County shall deposit into a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no special agreement is reached, the damaged Work shall be repaired or replaced the monies so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Agreement.

- B.4.2. County as fiduciary shall have power to adjust and settle any loss with insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to County's exercise of this power. If such objection be made, County as fiduciary shall make agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, County as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party of interest, County as fiduciary shall give bond for the proper performance of such duties.



## 2.1.6 Contract

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

THIS CONTRACT, made and entered into by and between the Incorporated County of Los Alamos, New Mexico, hereinafter called the County and \_\_\_\_\_, a \_\_\_\_\_ (State and entity status), hereinafter called the CONTRACTOR, is executed on the date set forth opposite the signature of the authorized representatives of the parties.

WHEREAS, the Contractor was awarded the Contract for the Incorporated County of Los Alamos: Invitation for Bids Number IFB24-57 Kinnikinnik Park Trail ADA Improvements Project and said award was approved by the County on \_\_\_\_\_, which date shall be deemed to be the date of this Contract.

### **THE PARTIES AGREE:**

**ARTICLE 1 – SUBJECT MATTER –** The Contractor shall perform the Work, and shall furnish all the materials, equipment, tools, labor and all supplies, appliances, and appurtenances necessary to the full completion of the Work on the Project, and in accordance with the language of the Contract and the Solicitation documents. The term “Contract” means the Solicitation. The Work shall be performed in accordance with the Contract, which shall be interpreted to give full effect to all of the terms and conditions herein. In the event of a conflict in the terms and provisions of the Contract, the terms and provisions of the Contract shall control in the following order:

- A. Change Orders
- B. Addenda
- C. Contract
- D. Notice to Contractors
- E. Special Conditions
- F. General Conditions
- G. Technical Specifications
- H. Contract Drawings

### **ARTICLE 2 – CONTRACT TIME –**

- A. Construction shall start on or after the date specified on the Notice to Proceed. **The Work shall achieve Substantial Completion by \_\_\_\_\_, 2024. The Project shall achieve Final Completion by \_\_\_\_\_, 2024.** The calendar day period between the substantial completion and final completion dates is for the sole purpose of completing all punch list items.
- B. The Contractor will proceed with the Work at such rate of progress to ensure full completion of the Work by the Final Completion date. It is expressly understood and agreed, by and between the Contractor and the County, that the Contract Time for the completion of Work described herein is a reasonable time, and that in submitting a bid on

the Project and executing the Contract, the Contractor has taken into consideration the average climatic and economic conditions and other factors prevailing in the locality where the Work is to be performed.

C. Termination of the Contract-

1. This contract shall terminate upon County's issuance of Notice of Final Completion, provided however, that Contractor's warranty obligations and any warranties listed within the Technical Specifications for materials, equipment, systems and/or labor supplied through the Contractor for the execution of the Work shall survive the termination of this Contract until such time as County determines that Contractor's warranty obligations have been fulfilled and County has specifically released Contractor, in writing or by the individual warranty expirations, from such obligations. The issuance of Notice of Final Completion or the release of surviving Contractor obligations shall not be deemed a waiver of any claim the County may have against Contractor arising from Contractor's performance under this Contract.
2. County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for work actually completed to the satisfaction of County at the rates agreed upon by the parties hereto. Contractor shall render a final report of the work done to the date of termination and shall turn over to County originals of all materials, documents or other deliverables prepared pursuant to this Contract.
3. Funding. This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by the County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

**ARTICLE 3 – LIQUIDATED DAMAGES FOR DELAY OR INCENTIVES FOR EARLY COMPLETION –**

- A. Should the Contractor fail to complete the work within the time agreed upon in the Contract, Contractor will be assessed **\$250.00** per day for each calendar day beyond the Milestone. Substantial, and/or Final Completion dates, including all executed change orders. In view of the difficulty of estimating the damage, this amount is fixed by parties as the liquidated damages that the County will suffer by reason of such default and not by way of penalty.

B. Delays –

1. If the Contractor is delayed at any time in the progress of the Work by any act or neglect by the County, or by changes in the Work, or by labor disputes, fire, unusual delay in transportation, unusual weather, adverse soil conditions other than was described in a geotechnical survey, unavoidable loss by the Contractor, delays specifically authorized by the County, or by unforeseeable or unavoidable causes beyond the Contractor's control, avoidance, or mitigation, and without the fault or negligence of the Contractor or subcontractor or supplier at any tier, then the Contract Time may be extended by Change Order for such reasonable time as the overall completion of the Work, as the County may in its sole discretion determine that such event has delayed the Critical Path and Completion of the Work, if the Contractor complies with the notice and documentation requirements set forth below.
2. Contractor shall provide a written notice of delay which may result in a request for an extension of time to the County, within ten (10) calendar days from the date the Contractor knew or should have known of the facts giving rise to the delay. The notice shall indicate the cause of the delay, the anticipated length of the delay, and the probable effect of such delay upon the progress of the Work. If the cause of the delay is continuing, the Contractor must give written notice every month at the same time it submits the updated schedule and/or progress report to the County with the Payment Application.
3. Within fifteen (15) calendar days after the elimination of any such delay, the Contractor shall submit a formal Change Order request for an extension of time for such delay. The written request for time extension shall state the cause of the delay, the number of days extension requested, and such analysis and documentation of the schedule of the project and other documentation to demonstrate a delay in the critical path of the Work.
4. If the Contractor does not comply with the notice and documentation requirements set forth above, the Contractor shall have waived its right to a claim for delay.

C. An incentive for early completion if applicable shall apply to each calendar day the work is substantially complete prior to Milestone or Substantial Completion date up to a maximum number days as assigned.

1. The incentive payments for this contract are assigned at \$0.00 per day.

**ARTICLE 4 – COMPENSATION –** In consideration of the satisfactory performance of the Work by the Contractor and the acceptance of such Work by the County, Contractor shall be paid an amount not to exceed the Contract Price of \_\_\_\_\_ (\$ 000,000.00), plus any executed Change Order(s), plus applicable New Mexico Gross Receipts Tax

**ARTICLE 5 – PROGRESS PAYMENTS –**

- A. Contractor shall submit (but not more often than once a month), to the County for review an Application and Certification for Payment as shown herein, filled out and accompanied by such supporting documentation as is required by the Agreement and also as the County may reasonably require. The County has seven (7) calendar days to review the Application for Progress Payment either to accept or reject. If application is rejected, Contractors shall resubmit a new Application for Progress Payment. Upon any re-submittal of Application for Progress Payment, the twenty-one (21) calendar day time frame is reinstated. These applications for payments shall be based on the performance of the Work in accordance with the Contract Documents. Contractor shall submit Earned Value Curve if required by the Project Manager with each Application for Payment,
- B. Contractor warrants and guarantees that title to all work, material and equipment covered by an Application for Progress Payment, whether incorporated in the Project or not, will pass to County at the time of payment free and clear of all liens, claims, security interests and encumbrances.
- C. Prior to Substantial Completion, the County with the concurrence of the Contractor may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.
- D. As provided herein, County may refuse to make payment of the full amount requested by the Contractor. County will provide Contractor with written notice (with copy to Engineer) stating the reasons for such action.
- E. If payment is requested and approved by the Project Manager on the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Progress Payment shall also be accompanied by such data, (receipts, invoices, packing lists, delivery tickets, etc.) satisfactory to Owner and will establish Owner's title to the material and equipment and project. Contractor is responsible for all loss or damage to stored materials.
- F. Contractor warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to County no later than time of payment, free and clear of all liens.
- G. In the event that agreement between the County or County's designee and Contractor cannot be reached, the County will pay the portion not in question and attempt to reach agreement on those portions not in agreement in the next billing cycle.
- H. Payment may be made by mutually agreed upon method.
- I. County has full power to withhold payment and release of Contractor's Performance as well as Labor and Materials Bonds until all the work is completed to the County's satisfaction, until the Contractor shall satisfy the County that it has fully settled or paid for all labor performed and materials, supplies, equipment rentals and services used from the respective suppliers and subcontractors involved, and to withhold payment equal to liquidated damages as accepted payment for liquidated damages.
- J. County at its sole discretion may require an Affidavit of Payment and Release of Liens with every Application.

- K. Unless otherwise specified in the Solicitation Documents as a Notice of Extended Payment, permitting the Owner to make payment within a period not to exceed 45 days, payments shall be made within twenty-one (21) calendar days from receipt of an undisputed request in accordance with the New Mexico Prompt Payment Act, Sections 57-28-1 et seq. NMSA 1978.
- L. Final Application for Payment
  - L.1. The final Application for Progress Payment shall include a notarized Affidavit of Payment and Release of Liens.
  - L.2. After Contractor has completed all such corrections to the satisfaction of the County and delivered in accordance with the Contract Documents all maintenance and operating instructions, all materials including but not limited to spare parts, lubricants, etc., as required by Contract documents, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, Notice of Termination for NPDES, marked up record documents showing work as constructed (as-builts), video tapes, Contractor may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied (except as previously delivered) by all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required, consent of surety, if any, to final payment, and complete and legally effective releases or waivers (satisfactory to County) of all liens arising out of or filed in connection with the Work. If any subcontractor or supplier fails to furnish such release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any lien.
- M. Final Payment and Acceptance
  - M.1. On the basis of the Engineer's and Owner's observation of the Work during construction and final inspection and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer recommends to Owner that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Owner shall process final payment. Otherwise, County will return the Application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application.
- N. The final payment by the County signifies that the Work has been accepted by the County under the conditions of the Contract Documents.
  - N.1. The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically expected by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the County and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or the Contractor's sureties from

any obligations under the Solicitation documents or the Performance Bond and Labor and Materials Bond.

- O. The making and acceptance of Final Payment shall constitute a waiver of all claims by the Contractor against the County other than those previously made in writing and still unsettled.

**ARTICLE 6 – PAYMENT TO MECHANICS AND LABORERS** – Contractor agrees to make prompt payment to its subcontractors and suppliers for work performed under the Contract within seven (7) days after receipt of payment from the County and to pay all mechanics and laborers in accordance with Section 57-28-5 NMSA 1978, as applicable. Contractor shall obtain from each supplier of services or materials used in the performance of the Contractor’s obligations under this Contract a written release and waiver of all liens against the County and Project. Such releases and waivers of lien shall be submitted to the County with the final Application for Payment and may be required with each Application for Payment at the County’s sole discretion.

Additionally, all Sub-contractors shall require that their Sub-contractors and suppliers make prompt payment to their Sub-contractors and suppliers for amounts owed for work performed on the construction project within seven days after receipt of payment from the owner, contractor or Sub-contractors

If the contractor or Sub-contractors fails to pay the contractor’s or Sub-contractor’s subcontractor and suppliers by first-class mail or hand delivery within seven days of receipt of payment, the contractor or subcontractor shall pay interest to the subcontractors and suppliers beginning on the eighth day after payment was due, computed at one and one-half percent of the disputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers.

**ARTICLE 7 – MODIFICATION OF CONTRACT** – This Contract may be modified only by mutual written consent of the parties.

**ARTICLE 8 – INDEMNITY** – Contractor shall indemnify, hold harmless and defend County, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, (including without limitation fees for attorneys and other professionals, of any kind or nature), arising from Contractor’s performance or failure to perform hereunder or breach hereof or the performance or failure to perform of Contractor’s employees, agents, representatives and subcontractors.

All representations, indemnifications, warranties, and guarantees made in, required by or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment to the extent permitted by New Mexico or other applicable law, completion and acceptance of the Work and termination or completion of the Agreement.

**ARTICLE 9 – NON-ASSIGNMENT** – Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of the County.

**ARTICLE 10 – LAWS, REGULATIONS, JURISDICTION AND VENUE** – Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Work in accordance with all applicable laws, regulations, and policies during the term of the Contract. In any lawsuit or legal dispute arising from the operation of this Contract Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District court of New Mexico in Los Alamos County, New Mexico.

**IN WITNESS** whereof the parties have executed this Contract.

CONTRACTOR

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

INCORPORATED COUNTY OF LOS ALAMOS:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Steven Lynne, County Manager

ATTEST

By: \_\_\_\_\_

Naomi Maestas, County Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
J. Alvin Leaphart, County Attorney

### 3.0 CONSTRUCTION PHASE

#### 3.1 Construction Phase Related Forms

##### 3.1.1 Contractor Personnel Information

The Contractor will provide at the pre-construction meeting and update as necessary the following information to the County:

- A. Contractor's Project Manager: \_\_\_\_\_
- B. Contractor's Superintendent: \_\_\_\_\_
  - 1. Address: \_\_\_\_\_
  - 2. Telephone No.: \_\_\_\_\_
  - 3. Email Address: \_\_\_\_\_
- C. Emergency Contact Information:
  - 1. Name: \_\_\_\_\_
  - 2. Phone No.: \_\_\_\_\_
  - 3. Name: \_\_\_\_\_
  - 4. Phone No.: \_\_\_\_\_
  - 5. Name: \_\_\_\_\_
  - 6. Phone No.: \_\_\_\_\_
  - 7. Name: \_\_\_\_\_
  - 8. Phone No.: \_\_\_\_\_
- D. List of authorized signatures for: Certified Payroll, Payroll Affidavits, Change Orders, Progress Payment Certifications.
  - 1. Name: \_\_\_\_\_
  - 2. Title: \_\_\_\_\_
  - 3. Name: \_\_\_\_\_
  - 4. Title: \_\_\_\_\_
- E. Project Safety Officer: \_\_\_\_\_
- F. Equal Employment Opportunity Officer: \_\_\_\_\_

The person listed in "B" will become the Contractor's Representative of Record. The Contractor will not be allowed more than one (1) Representative. The Contractor's Representative shall supervise the project and be available at all times when construction is in progress.



**3.1.2 Notice to Proceed**

Date: \_\_\_\_\_

To: \_\_\_\_\_

Address: \_\_\_\_\_

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

You are notified that the Contract time under the above contract will start on \_\_\_\_\_, 20\_\_\_\_. By that date you are to start performing your obligations under the Contract. You are required to return an acknowledged copy of this Notice to Proceed to the County's Designee before commencing any work and meet all other requirements of the Contract. The date of Substantial Completion of all work is therefore \_\_\_\_\_, 20\_\_\_\_, and Final Completion of all work is therefore \_\_\_\_\_, 20\_\_\_\_.

Incorporated County of Los Alamos

\_\_\_\_\_  
Steven Lynne  
County Manager

**3.1.3 Acceptance of Notice to Proceed**

Receipt of the Notice to Proceed is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
for the following project:

**Incorporated County of Los Alamos  
Invitation for Bids Number: IFB24-57  
Kinnikinnik Park Trail ADA Improvements Project**

CONTRACTOR:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3.1.4 Application and Certification for Payment Part 1**



**APPLICATION & CERTIFICATION FOR PAYMENT  
County of Los Alamos**

Application Date: \_\_\_\_\_ Period From: \_\_\_\_\_ To \_\_\_\_\_  
 Application Number: \_\_\_\_\_  
 Project: \_\_\_\_\_ Bid Number: \_\_\_\_\_  
 Contractor: \_\_\_\_\_  
 Contract Date: \_\_\_\_\_

Change Order Summary		
Change Orders approved in previous months by County	ADDITIONS	DEDUCTIONS
<b>TOTAL</b>		
Approved this Month		
Number	Date	
<b>TOTALS</b>		
Net change by Change Orders		

1. ORIGINAL CONTRACT SUM \$ \_\_\_\_\_
2. Net change by Change Orders \$ \_\_\_\_\_
3. CONTRACT SUM TO DATE \$ \_\_\_\_\_  
(Line 1 plus line 2)
4. TOTAL COMPLETED TO DATE \$ \_\_\_\_\_  
(Column F on Cont. Sheet)
5. BALANCE TO FINISH \$ \_\_\_\_\_  
(Line 3 less Line 4)
6. PREVIOUS TOTAL COMPLETED \$ \_\_\_\_\_  
(Line 4 from prior Application)
7. SUBTOTAL OF CURRENT PAYMENT \$ \_\_\_\_\_  
(Line 4 less Line 6)
8. **N.M. GROSS RECEIPTS TAX \$ \_\_\_\_\_**  
**( \_\_\_\_\_ % of Line 7)**
9. CURRENT PAYMENT DUE \$ \_\_\_\_\_  
(Line 7 plus Line 8)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all Amounts have been paid by the Contractor for Work which previous Certificates for Payment were issued and payments received from the County, and that Current Payment shown herein is now due.

**CONTRACTOR:**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 State of \_\_\_\_\_ County of \_\_\_\_\_  
 Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 Notary Public: \_\_\_\_\_  
 My Commission Expires: \_\_\_\_\_

This certificate is not negotiable. The Amount Certified is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

**ENGINEER'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents based on on-site observations and the data comprising the above application, the ENGINEER'S Project Manager certifies to the Owner that to the best of the ENGINEER'S Project Manager's knowledge, information and belief the Work has progressed as indicated, the quantity of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

**AMOUNT CERTIFIED: \$ \_\_\_\_\_**  
 (Attach explanation if amount certified differs from the amount applied for.)

**ENGINEER'S PROJECT MANAGER:**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_



**3.1.6 Affidavit of Payment and Release of Liens**

**Affidavit of Payment and Release of Liens  
Page 1 of 2**

*See page 2 of this form for instructions regarding (A)-(H)*

**To All Whom It May Concern, To The Following I Do Solemnly Swear And Affirm:**

WHEREAS, the undersigned has been employed by (A)

\_\_\_\_\_

to furnish labor and materials for (B)

\_\_\_\_\_

work, under a contract (C)

\_\_\_\_\_

for improvement of the premises described as (D)

\_\_\_\_\_

in the (E) \_\_\_\_\_ County of \_\_\_\_\_,

State of New Mexico of which \_\_\_\_\_ is the Owner.

**NOW, THEREFORE**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for and in consideration of the sum of (F) \$ \_\_\_\_\_ Dollars paid simultaneously herewith, the receipt whereof is hereby acknowledged by the undersigned, the undersigned does hereby waive and release any lien rights to, or claim of lien with respect to and on said above described premises, and the improvements thereon, and on the monies or other considerations due or to become due from the Owner, on account of labor, services, materials, fixtures, apparatus or machinery heretofore or which may hereafter be furnished by the undersigned to or for the above described premises by virtue of said contract.

The undersigned, as Contractor for the above named Contract pursuant to the Conditions of the Contract hereby certifies that, except as listed below, he/she has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his/her property might in any way be held responsible.

The undersigned hereby certifies that all work required to be done under terms of the above described Contract has been fully performed and completed in conformance with the Contract and that applicable provisions of the New Mexico Public Works Minimum Wage Act (§ 13-4-11 NMSA 1978) have been met.

**Affidavit of Payment and Release of Liens**

**EXCEPTIONS:(G)**

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**INSTRUCTIONS:**

1. Person or firm with whom you agreed to furnish either labor, or services, or materials, or both. (A)
2. Fill in the nature and extent of work; strike the word labor or the materials if not in the contract. (B)
3. Identify contract(s) by number, description, and extent of work. (C)
4. Describe improvements and location of the premises to exclude all others. (D)
5. Name community, such as City of \_\_\_\_\_, Village of \_\_\_\_\_, or Unincorporated Area known as \_\_\_\_\_. (E)
6. Amount shown should be the amount actually received and equal to the total adjusted contract. (F)
7. If none, write "None". If required by Owner, Contractor shall furnish bond satisfactory to Owner for each exception. (G)
8. If waiver is for a corporation, corporate name should be used, corporate seal affixed and title of officer signing affidavit should be set forth; if waiver is for a partnership, the partnership name should be used, partner should sign and designate as partner. (H)

(H) \_\_\_\_\_  
(Name of sole ownership, corporation or partnership)

\_\_\_\_\_  
(Signature of Authorized Representative)

TITLE: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

### 3.1.7 Field Order

Field Order #	Project:	Date:
IFB #:	Affected Document(s):	
Description of Change(s) (Attach to Design Document Mark-ups):		
Reason For Change(s):		
<input type="checkbox"/> Design Error/Omission <input type="checkbox"/> Design Improvement <input type="checkbox"/> Facilitate Construction <input type="checkbox"/> Criteria Change <input type="checkbox"/> As-found Condition/Record <input type="checkbox"/> Other (describe): _____		
Priority: Low    Medium    High    (Circle One)		
Complexity: Low    Medium    High    (Circle One)		
Preliminary Approval To Proceed By Engineer:		
Review		
	Signature	Date
Originator		
Engineer		
Owner		
Contractor		
Request for Quote issued? _____ Date: _____		
Force Account: _____ Date: _____		
<b>ACCEPTED</b>	<input type="checkbox"/>	Owner
<b>REJECTED</b>	<input type="checkbox"/>	Owner

**3.1.8 Change Order**

**Page 1 of 3**

Change Order No.: \_\_\_\_\_

Agreement Date: \_\_\_\_\_

Name of Project: **Incorporated County of Los Alamos**

**Contractor:**

**The following changes are hereby made to the Contract Documents:**

JUSTIFICATION:

**CHANGE TO CONTRACT PRICE:**

Original Price \$ \_\_\_\_\_

Current Contract Price adjusted by previous Change Order \$ \_\_\_\_\_

The Contract Price due to this Change Order will be (\_\_\_\_\_) by: \$ \_\_\_\_\_

The new Contract Price, including this Change Order will be \$ \_\_\_\_\_

**CHANGE TO CONTRACT TIME:**

**SUBSTANTIAL COMPLETION:**

Original Contract Time \_\_\_\_\_calendar days.

Current Contract time adjusted by previous Change Order(s) \_\_\_\_\_calendar days.

The Contract Time will be (\_\_\_\_\_) by \_\_\_\_\_calendar days.

New Contract Time including this Change Order will be \_\_\_\_\_calendar days.

The date for completion of substantial work will be \_\_\_\_\_(Date)

**FINAL COMPLETION**

**Page 2 of 3**

Original Contract Time \_\_\_\_\_calendar days.

Current Contract time adjusted by previous Change Order(s) \_\_\_\_\_calendar days.

The Contract Time will be (\_\_\_\_\_) by \_\_\_\_\_calendar days.

New Contract Time including this Change Order will be \_\_\_\_\_calendar days.

The date for completion of all work will be \_\_\_\_\_(Date)

Page 3 of 3

**APPROVALS REQUIRED:**

To be effective, this order must be approved by the County Manager; or the Los Alamos County Council if the contract modification, change order, or contract price adjustment exceeds the funding budgeted and specifically appropriated for this project, or as may otherwise be required by the General Conditions.

The adjustment in Contract price and/or Contract time stated in this Change Order shall constitute the total price and/or time adjustment due or owed the Contractor for the work or changes ordered by the Change Order. By executing the Change Order, the Contractor acknowledges and agrees that the stipulated price and/or time adjustments represent full compensation for all adjustments in the cost or the time required to perform the Contract as a whole arising directly or indirectly from the Change Order, including costs and delays associated with the interruption of schedules, extended overheads, delay, and cumulative impacts or ripple effect on all other non-affected work under Contract not changed by the Change Order. Signing of the Change Order constitutes full and mutual accord and satisfaction for the adjustment in contract price and/or time, subject to the current scope of the entire work as set forth in the Contract Documents. Acceptance of this Change Order constitutes an agreement between Owner and Contractor that the Change Order represents an equitable adjustment to the Contract, and that the Contractor will waive all rights to file a claim on this Change Order after it is properly executed.

Requested by Project Manager: \_\_\_\_\_  
\_\_\_\_\_, Project Manager

Approved by (County Engineer) \_\_\_\_\_  
\_\_\_\_\_, County Engineer

Approved by (Public Works Director): \_\_\_\_\_  
Anne Laurent, Public Works Director

Approved by (County Administrator): \_\_\_\_\_  
Steven Lynne, County Manager

If applicable, approved by the County Council on the \_\_\_\_\_ Day of \_\_\_\_\_, 20

Attest:

(County Council)

Print Name \_\_\_\_\_

Title \_\_\_\_\_

**INCORPORATED COUNTY OF LOS ALAMOS**

**CERTIFICATE OF SUBSTANTIAL COMPLETION**



LOS ALAMOS

**Date of Issuance:** \_\_\_\_\_

**Bid Number:** \_\_\_\_\_

**Bid Title:** \_\_\_\_\_

**Contractor:** \_\_\_\_\_

**Engineer:** \_\_\_\_\_

**This Certificate of Substantial/ Final Completion applies to all Work under the Contract Documents or to the following specified parts thereof:**

TO:

\_\_\_\_\_  
Contractor

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

\_\_\_\_\_  
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and failure to include an item in it does not alter the responsibility of Contractor to complete all the Work in accordance with the Contract Documents.

**Certificate of Substantial / Final Completion  
(Page 2 of 2)**

**This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligations to complete the Work in accordance with the Contract Documents.**

Executed by Owner on \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Project Manager

By: \_\_\_\_\_  
(Authorized Signature)

Accepted by the Architect on \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Architect

By: \_\_\_\_\_  
**(Authorized Signature)**

Accepted by the Contractor on \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_  
**(Authorized Signature)**

## 3.2 Conditions of the Contract - General Conditions

### 3.2.1 Definitions

Wherever used in any of the Contract documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof unless another meaning is clearly specified:

- A. **The terms “Contract” and “Agreement” are interchangeable when used throughout.**
- B. **Abandoned or Unknown Underground Facilities** – All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which were installed underground and have since been abandoned by Previous Owner. Such utilities will not be located and are not subject to ownership.
- C. **Active Underground Facilities** – All active pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, telephone or other communications, sewage, and drainage removal, or effluent, potable or other pressurized or gravity water. Contractor should exercise due diligence and reasonable care when digging in the event of encountering and working near utilities or facilities that could interfere with the work. Safety for each encounter is primary. These facilities may not be able to be located. Contractor shall be responsible for any costs associated with damage, uncovering, repair, usage, etc.... including delay, and shall include such costs in the proposal.
- D. **Addenda** – Written or graphic documents issued prior to the opening of bid documents which modifies or interprets the Solicitation Documents, Drawings and Specifications, by additions, deletions, clarifications or corrections.
- E. **Application for Payment** – The form accepted by the County which is to be used by Contractor in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract documents.
- F. **Architect** – (See Engineer below)
- G. **Bid** – The documents provided by the County and required documents of the Bidder submitted on the prescribed forms setting forth the prices for the Work to be performed.
- H. **Bidder** – Any person, firm, or corporation submitting a response to the Bid.
- I. **Bid Documents** – Includes but not limited to Advertisement, Invitation to the Solicitation, Summary of Work, Conditions for Bidders, Bid Forms, Plans, Specifications, and including all addenda issued prior to receipt of Bids.
- J. **Bonds** – Bid, Performance, and Labor and Materials Payment Bonds and other instruments of security, furnished by a contractor and the contractor’s surety in accordance with the Solicitation documents.
- K. **Change Order** – A written Amendment to the Contract authorizing an addition, deletion or revision in the Work within the general scope of the Contract documents, or authorizing an adjustment in the Contract, Contract Price or Contract Time.
- L. **Completion Definitions** –

**Substantial Completion** - The date when the Contractor and County consider the entire Work ready for its intended use as evidenced by the Certificate of Substantial Completion.

1. **Partial Utilization** – Use by County at County’s sole option of any substantially completed part of the Work which constitutes a separately functioning and usable part of the Work that can be used by County for its intended purpose without significant interference with Contractor’s performance of the remainder of the Work and may be accomplished prior to Final Completion of all the Work.
  2. **Final Completion** – The date when the Contractor and County consider the entire Work to be complete, including all outstanding Punch List items. Contractor shall at the completion of work, remove all debris and other rubbish from the project site and shall remove all its tools and surplus materials and shall leave the project site clean. If the Contractor fails to clean up, the County may do so and subtract the cleanup cost from the Contractor’s final payment. Contractor shall legally dispose of all construction debris at the Contractor’s expense.
- M. **Contract Documents** – The written contract between County and Contractor covering the work to be performed, including but not limited to all associated documents contained in the Solicitation:
1. Addenda to the Solicitation, Summary of Work, Conditions for Bidders, Bid Forms, Award Forms, Contract Application and Certification of Payment, Conditions of the Contract, General Requirements, Notices to Contractor, Technical Specifications and Plans, Contractor’s Bid and Documentation submitted by Contractor prior to Notice of Award, Bonds, Written Amendments to any Contract Document, Change Orders, Field Orders, and County’s written interpretations and clarifications issued on or after the Effective Date of the Agreement, all of which are incorporated by reference and made a part of this Contract as fully as if herein repeated and a copy of which the Contractor acknowledges hereby that he has received. Engineer’s written interpretations and clarifications issued on or after the Effective Date of the Contract as identified and incorporated by reference therein.
  2. Shop drawing submittals approved and the reports and drawings referred to in Section 3, paragraph 3.11 are not Contract documents.
- N. **Compensation** – The total monies payable to the Contractor under the terms and conditions of the Contract documents, and includes all County-approved changes thereafter.
- O. **Contract Time** – The time period stated in the Contract documents for the Contractor’s completion and County’s acceptance of the Work.
- P. **Contractor** – The person, firm or corporation with whom the County has executed the Agreement.
- Q. **County** – Incorporated County of Los Alamos
- R. **Defects and /or Defective Work** – Work that is unsatisfactory, faulty or deficient, in that it does not conform to the contract documents, or does not meet the requirements of any inspection, reference standard, test, or approval, or Work that has been damaged prior to final payment.
- S. **Emergency** – A sudden, unexpected, or impending situation that poses and immediate risk to health, life, property or environment, including but not limited to the

safety or protection of the Work, or property, real or personal, at the site or on related construction and staging areas and roads, or property adjacent thereto.

- T. **Engineer** – or the Engineer’s designated representative who has designed the technical aspects of this project for the County of Los Alamos, includes Architect, and Architect/Engineer.
- U. **Engineer’s (or Architect’s) Resident Project Representative (RPR)** – Provides construction oversight, administration, inspection, and quality assurance services during construction. Also known as Construction Observer.
- V. **Field Order** – A written order effecting a change in the Work which does not involve an adjustment in the Compensation or an extension of the Contract Time, issued by the County Project Manager or Designee to the Contractor during performance of the Work.
- W. **Hazardous Waste** – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
- X. **Lump Sum** – The total single price commitment for paying for all of the Work defined in the Solicitation Documents or a specified portion thereof.
- Y. **Notice of Award** – The County’s written notice that the County is issuing award of the Contract to the Contractor.
- Z. **Notice to Proceed** - The County’s written notice to the Contractor authorizing the Contractor to proceed with Work and establishing the date of commencement of the Work.
- AA. **Owner** – The County of Los Alamos
- BB. **Plans** – The part of the Solicitation documents which show the characteristics and scope of the Work to be performed by the Contractor and which have been prepared or approved by the Engineer.
- CC. **Project Manager** – Owner’s designee who provides construction oversight, administration, inspection, and quality assurance services during construction.
- DD. **Samples** – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be evaluated.
- EE. **Shop Drawings** – All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier, or distributor which illustrate how specific portions of the Work shall be fabricated, performed or installed. Shop drawings shall illustrate some portion of the work and confirm dimensions and conformance to Solicitation documents. Shop drawings are not part of the Contract documents.
- FF. **Specifications** – Written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship.
- GG. **Subcontractor** – An individual, firm or corporation having a direct contract with the Contractor (not the County) or with any other Subcontractor for the performance of a part of the Work at the site.
- HH. **Punch List Items** – A list of deficiencies to be corrected by Contractor between Substantial and Final Completion.
- II. **Successful Bidder** – Lowest responsible and responsive Bidder that the County selects for award.

- JJ. **Supplier** – A manufacturer, fabricator, distributor, or vendor etc., having a direct contract with Contractor or any Subcontractor.
- KK. **Unit Price** – Amount to be paid on the basis of individual line item prices.
- LL. **Work** – The entire construction or various separately identifiable parts thereof required to be furnished under the Contract. Work includes and is the result of performing or furnishing and incorporating materials and equipment into the construction, and performing furnishing services and furnishing documents, all as required by the Contract.
- MM. **Written Notice** – Any notice to any party of the Contract relative to any part of the Contract.

### 3.2.2 Additional Instructions

- A. County may furnish to the Contractor additional instructions and detail drawings, Field Orders or Change Orders as necessary to carry out the Work required by the Contract.
- B. Additional drawings and instructions supplied to the Contractor by the County will become a part of the Contract. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.
- C. The Contractor is responsible for conducting its own, independent quantity take-off for the Work. Following issuance of Notice of Award, but prior to issuance of the Notice to Proceed, the Contractor shall advise the County in writing of any substantive discrepancies between the Contractor's take off, and the itemized line item unit prices.
- D. Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and verify pertinent figures shown thereon and all applicable field measurements.
- E. Contractor shall promptly report in writing to County any conflict, error, ambiguity or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from County before proceeding with any Work affected thereby.
- F. The Contract Documents comprise the entire agreement between County and Contractor concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- G. The Contract Documents will be construed in accordance with the law of the place of the Work.
- H. It is the intent of the Contract Documents to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any work, materials, or equipment that may reasonably be inferred from the documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe work, materials, or equipment, such words or phrases shall be interpreted in accordance with that meaning. Clarifications and interpretations of the Technical Specifications and Contract Drawings shall be issued by the County.

- I. Reference to standards, specifications, manuals, or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or Laws or Regulations in effect at the time Proposals except as may be otherwise specifically stated in the Contract documents.
- J. If during the performance of the Work, Contractor discovers any conflict, error, or ambiguity, or discrepancy within the Contract documents and any provision of any such Law or Regulation applicable to the performance of the Work or of any such standard, specification, manual, or code or of any instruction of any Supplier, Contractor shall upon discovery provide to the County written notice thereof and Contractor shall not proceed with the Work affected thereby (except in emergencies affecting the safety or protection of the Work or property at the site or adjacent thereto), until the conflict, error, ambiguity or discrepancy has been resolved through a Field Order or a Change Order.
- K. Except as otherwise specifically stated in the Contract documents or as may be provided by Change Order, the provisions of the Contract documents take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Contract documents and the provisions of any such standard, specification, manual, code or instruction (whether or not specifically incorporated by reference in the Contract Document) or the provisions of any Laws, Regulations, policies or procedures applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract documents would result in violation of such Law or Regulation). No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of County, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Bid documents, nor shall it be effective to assign to County, Engineer, or any of Engineer's Consultants, agents or employees any duty or authority to supervise or direct the furnishings of performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract documents.
- L. Whenever in the Contract documents the terms "as ordered," "as directed," "as required," "as allowed," or terms similar to "reasonable," "suitable," "acceptable," "proper," or "satisfactory" are used to describe a requirement, direction, review or judgment of County or Engineer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance (methods and means) of the Work or any duty or

authority to undertake responsibility contrary to any provision of the Contract documents.

- M. The Contractor will develop a document control system for the Project which establishes protocol for acceptance and distribution of all construction related documents. Contractor shall also establish processes for certain standardized documents in the Contract documents and in other pertinent documents as required such as Requests for Information, Submittals, Change Orders, Field Orders, Cost Proposals, Design Notices, and Meeting Minutes and others as necessary during the Pre-Construction Conference. The Contractor shall adhere to these processes and require the same of all their subcontractors.
- N. Contractor shall maintain in a safe place known to the County one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Field Orders, and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all approved samples and all approved Shop Drawings will be available to County for reference. Upon completion of the Work, these record documents, Samples and Shop Drawings will be delivered to the County or the County's designee.
- O. Generally, Plans, Specifications and other Contract Documents are provided electronically. If the Contractor requests paper copies, these copies may be furnished upon request at the cost of reproduction.

### **3.2.3 Schedules, Reports and Records**

- A. Baseline Schedule -
  - 1. Contractor shall provide a Baseline Schedule for County review and acceptance prior to the Pre-Construction meeting showing the complete sequence of construction by activity with costs loaded by activity as appropriate to depict the value of the activities and the respective rolled-up work packages. This schedule and all updates shall be in Microsoft Project (preferred) or other programs as approved by County.
  - 2. The Contractor shall submit as part of the Baseline Schedule, the proposed number of working days per week; holidays to be observed during duration of Contract by day and month; planned shifts per day and number of hours per shift. Contractor shall notify County at least three (3) working days in advance of any work to be done outside of usual working hours or any change in usual working hours for approval by County.
  - 3. The schedule shall be in sufficient detail to include but not be limited to include significant elements of the work, time frame for each element of work with a beginning and ending point, percentage of progress of work placed or to be placed in a monthly period of time, value of the elements of the work and relationship of elements of work one to the other for the total work under the Contract.

4. The schedule shall show for each activity the durations, early and late start and finish dates, and predecessors. Schedule shall clearly identify one and only one critical path through the whole project.
  5. This schedule shall also show timing of all submittals including by not limited to shop drawings, manufacturer's literature, certificates of compliance, materials samples, permits and inspections by outside agencies, operating manuals, and guarantees as required per the Contract documents. The schedule should indicate the type of item and the contract requirement reference. The schedule shall show review time by County, Engineer and sub-consultants for all submittals.
  6. Schedule shall also show timing for installation and testing for all equipment and systems.
  7. The schedule will be a logically linked schedule and utilize the Critical Path Method (CPM) based on the period of time within which this Contract is to be completed as set forth in the Contract documents. The schedule shall identify the Work in sufficient detail to ensure compliance with Contract dates, schedules, and sequences of construction.
  8. The schedule shall be maintained throughout the life of the Contract. The initial schedule will be the baseline and progress will be compared monthly to this baseline unless a baseline change request is approved in writing by the County. Schedule is Contractor's schedule, prepared by the Contractor, which retains sole responsibility for adherence thereto.
  9. County reserves the right to establish hold points in the schedule before covering work requiring specialty inspections, or work requiring County approval. Such hold points may include but are not limited to inspection of primary electrical feed equipment prior to connecting to the County system, and pressure testing the gas system prior to County installation of gas meter station. Actual hold points will be determined during the progress meetings. Contractor shall give County 48 hour notice in advance of each hold point, and shall schedule a 72 hour hold until it is automatically released.
- B. In the event that the Contractor submits a Baseline Schedule that provides a shorter time for completion of the Project than that provided in the Contract, the Contractor shall not be entitled to any incentive for early completion or damages for delay resulting from any act or omission of County or any other person or entity, occurring between the end of the Baseline Schedule and the Contract Time allowed in Article 2 of the Contract and any change to contract time approved through an executed Change Order.
- C. Schedule Updates with Payment Applications –
1. After submittal and County review and acceptance of the Baseline Schedule, Contractor shall submit all monthly schedule updates to County with each partial payment application.

2. The updates to the schedule shall show the Work which has been performed and the order in which the Contractor proposes to carry on the remaining Work, including dates at which the Contractor will start and complete the various parts of the Work.
  3. Monthly progress will be assessed at the activity level to determine Earned Value. The percent complete assigned to each task will be determined by mutual agreement between the Contractor and County. Progress payments shall approximate the total Earned Value as calculated for the month. Each month with the submission of the updated schedule with progress, Contractor shall provide a narrative report as needed to define problem areas, anticipated delays, and the impact on the schedule. For any activity which is more than 10% behind approved schedule, contractor shall provide a written corrective action to be taken.
  4. Progress payment applications without an updated project schedule may be rejected by County.
- D. Contractor, at its sole expense shall submit schedules, reports, estimates, records, and other data, as required, in a format approved by the County throughout the duration of the project.
- E. Acceptance of Contractor's schedule by County will not relieve Contractor from compliance with all conditions of the Contract. Errors and omissions in the accepted Contractor's Schedule will not be cause for future claims by Contractor for extra costs or increased Contract Time. Contractor shall adhere to the established progress schedule as may be adjusted from time to time as provided below:
1. Contractor may submit for County acceptance proposed adjustments in the progress schedule that will not change the Contract Times or Milestones.
  2. Proposed adjustments in the progress schedule that will change the Contract Times or Milestones shall be submitted as a request for a Change Order. In the event Contractor requests and extension of Contract Time, Contractor shall furnish such justification, CPM data and supporting evidence for a determination.
- F. Contractor shall provide a minimum two (2) week look ahead for all scheduled activities in advance of each regularly scheduled project meeting. County may require this look ahead to be provided in written form.
- G. Work within the County limits after 9:00 p.m. and before 7:00 a.m. requires a Noise Ordinance Relief Permit. Contractor shall adhere to any conditions imposed by the County.
- H. Contractor shall maintain updated as-builts during construction. These shall be made available to the Project Manager for inspection upon request.

### **3.2.4 Shop Drawings and Submittals**

- A. The Contractor shall provide shop drawings, manufacturer's literature, certificates of compliance, material samples, materials colors, guarantees and other materials as

may be necessary for the completion of the Work as required by the Contract. The Contractor shall review and designate its approval and deliver all submittals to the Project Manager for review with reasonable promptness and in orderly sequence. The County, at its sole discretion may forward submittal(s) for further review by the County's designee. All submittals shall be properly identified.

- B. Contractor shall comply with the Project Manager and/or Engineer's attached comments. If such qualified review or if re-submission is so directed, Contractor shall make any corrections required or indicated by the Project Manager or Engineer at Contractor's expense.
- C. The approval by the Project Manager or Engineer of any shop drawing shall not release the Contractor from responsibility for deviations from the Contract.
- D. The approval of any shop drawing which substantially deviates from the requirement of the contract shall be evidenced by a Change Order.

### **3.2.5 Start of Various Types of Work and Management Planning**

- A. The County will not allow the Contractor to commence work at the project sites, including mobilization of equipment unless the following submittals/shop drawings/firms as applicable are approved by the Engineer:
  - 1. Traffic Control Plan and Traffic Impedance Plan.
  - 2. Storm water Pollution Prevention Plans (SWPPP) as specified.
  - 3. Copies of NPDES Notice of Intent (NOI) as specified.
  - 4. Name of proposed materials, soil, and concrete testing firm as specified.
  - 5. Name of proposed registered land surveyor or registered Engineer as specified.
  - 6. Safety Management Plan.
  - 7. Any material differences between Contractor's quantity take-off and quantities itemized in the Bid.
  - 8. Contractor shall obtain a Los Alamos County Business License.
- B. The County will not allow the Contractor to begin excavation unless the following submittals/shop drawings are approved by the County:
  - 1. Excavation/Shoring Plan
  - 2. Water, sewer, and gas system components (pipe, valve, fittings, manholes, etc.)
  - 3. Underground electric components
  - 4. Storm drain and sewer system components (pipe, inlets, manholes, etc.)
  - 5. Pipe bedding material
- C. The County will not allow the Contractor to commence installation of concrete structures until the following submittals/shop drawings are approved by the County:
  - 1. Concrete mix design
  - 2. Reinforcing steel

- D. The County will not allow the Contractor to commence installation of road work at the Project Site, unless the following submittals/shop drawings are approved by the County:
1. Structural fill material
  2. Gravel base course
  3. Prime coat/tack coat material
  4. Asphalt Pavement Mix Design
  5. Performance Graded Binder
  6. Storm drain pipe
  7. Hydrated lime
  8. Geotextile material.
- E. Contractor shall deliver to County prior to Substantial Completion Inspection:
1. Certificates of inspection and of occupancy as required by authorities having jurisdiction over the work.
  2. Contractor shall notify the County in writing when the Work is Substantially Complete and request a Certificate of Substantial Completion.
  3. County and/or Engineer shall then inspect the Work and either concur with or decline the request.
  4. If accepted, a Certificate of Substantial Completion shall be issued, with a “punch list” of items to be corrected and completed by the Final Completion date and shall include division of responsibilities as applicable between County and Contractor including but not limited to security, operation, safety maintenance, insurance, warranties and guarantees. County shall have the right to exclude Contractor from the Work after the date of Substantial Completion, but County shall allow Contractor reasonable access to complete or correct items on the correction list.
  5. If declined, County shall not issue the Certificate of Substantial Completion
- F. Final Completion –
1. The date when the Contractor and County consider the entire Work is complete, as evidenced by the Certificate of Final Completion.
  2. Contractor shall notify the County in writing when the Work is at Final Completion and request a Certificate of Final Completion.
  3. County and/or Engineer shall then inspect the Work and either concur in or reject the request.
  4. If accepted, a Certificate of Final Completion shall be issued.
  5. If declined, County shall not issue the Certificate of Final Completion. Contractor shall take such measures as are necessary to complete such Work or remedy deficiencies.
  6. Unless otherwise identified in the Bidding Documents, all items below in item G. shall be provided prior to Final Completion.

- G. Prior to County execution of the Certificate of Final Completion, Contractor shall furnish maintenance manuals as called for in Contract documents and Contractor shall provide start up assistance for County as required.
1. Data files of accurately surveyed coordinate points locating all as constructed structures and all buried utilities including depths and inverts of manholes. Use the coordinate system described in the Drawings on the Site Plan General Layout. Data files shall be in a format suitable for importing into AutoCAD drawings. Furnish complete written descriptions of each point and include a brief description of the data (Metadata) describing the data collection process and the names and contract information of the parties responsible for producing the data. Approval documents if the work is constructed in any way at variance to that shown on the Contract documents.
  2. As-built plans in the form of redlined plans with all aspects of the project constructed that deviate from the original plans marked in red on a Full Size (24"x36" or larger if architectural) paper set of plans.
  3. Contractor shall provide vendor training for the County as requested by the Project Manager, covering maintenance and operation of the systems. This may be provided prior to Substantial Completion upon agreement between the County and Contractor.

### **3.2.6 Materials, Services and Facilities**

- A. It is understood that, except as otherwise may be specifically stated in the Contract documents, the Contractor shall provide and pay for the costs and associated taxes for all materials, (except for materials furnished by the County), labor, tools, equipment and machinery, water, light, power, heat, fuel, telephone, sanitary facilities, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the Contract Time.
- B. Materials and equipment shall be stored to insure the preservation of quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located to facilitate prompt inspection.
- C. Manufactured articles materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- D. Materials, supplies, and equipment furnished by the Contractor shall be in accordance with samples submitted by the Contractor and approved by the County.
- E. Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor or any Subcontractor, subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
- F. Materials and equipment shall be new and of good quality.
- G. Contractor shall, if required, furnish evidence of the quality of any materials.

- H. Materials not meeting requirements of the Contract documents shall be removed from project by Contractor without expense to County.
- I. Materials shall be delivered to the site in original packaging with labels and trademarks intact, and such labels and trademarks shall remain intact until used.

### **3.2.7 Substitutes or “Brand Name” or Equal**

- A. Whenever an item of material or equipment is specified or described in the Contract documents by using the name of a proprietary item or the name of a particular supplier, the specification or description is intended to establish the type, function and level of quality required. Unless the specification or description contains or is followed by word reading that no “like,” “equivalent” or “equal” item or no substitution is permitted, other items of material or equipment of other suppliers may be recommended by Contractor for County’s approval under the following circumstances:
  - 1. “Or-Equal”: Contractor will recommend to County if an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required. It may be considered as an “or-equal” item, in which case review and approval of the proposed item may, in County’s discretion, be accomplished without compliance with some or all of the requirements for acceptance of proposed substitute items.
  - 2. Substitute Items: If an item of material or equipment proposed by Contractor does not qualify as an “or-equal” item, it will be considered a proposed substitute item.
    - a. Contractor shall first make written request to Project Manager for acceptance, signifying that the proposed substitute will perform the functions as specified and achieve the results called for by the particular design, functional or performance characteristics which are required.
      - (1) Contractor shall submit sufficient information to demonstrate that the item proposed is essentially equivalent to that named and is an acceptable substitute.
      - (2) Contractor will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will impact Contractor’s achievement of Substantial Completion, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract documents (or in the provisions of any other direct contract with County for work on the project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated.

- (3) Contractor shall provide an itemized estimate of all costs or credits which will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by County in evaluating the proposed substitute. County may require Contractor to furnish additional data about the proposed substitute.
3. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence or procedure of construction is shown or indicated in and expressly required by the Solicitation documents, Contractor may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to County upon recommendation from Engineer. Contractor shall submit sufficient information to allow Engineer to make recommendation to County that the substitute proposed is equivalent to that expressly called for by the Solicitation documents.
4. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each bid or submittal made. County upon recommendation of Engineer will be sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized without Engineer's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. County may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any "or-equal" or substitute. Engineer will record time required by Engineer and Engineer's Consultants in evaluating substitutes proposed or submitted by Contractor and in making changes in the Solicitation documents (or in the provisions of any other direct contract with the County for work Project) occasioned thereby. Whether or not Engineer accepts a substitute item so proposed or submitted by Contractor, County reserves the right to charge Contractor for review time by Engineer and Engineer's consultants for evaluation of each such proposed substitute item and for making changes in the Solicitation documents as needed.
5. Contractor's Expense: All data to be provided by Contractor in support of any proposed "or-equal" or substitute item will be at Contractor's expense.

### **3.2.8 Inspection and Testing**

- A. All materials and equipment used in performance of the Work shall be subject to adequate inspection and testing in accordance with generally accepted standards and as required and defined in the solicitation documents.
- B. If required by the solicitation documents, the Contractor shall provide at the Contractor's expense the testing and inspection services.
- C. The Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, paying all costs in connection therewith, and

furnishing County/Engineer with the required certificates of inspection, or approval within 72 hours of inspection

- D. The Contractor will give the County/Engineer twenty-four (24) hours' notice of readiness and shall cooperate with inspection and testing personnel to facilitate required inspections or tests. Contractor shall also be responsible for arranging obtaining and paying all costs in connection with any inspections, tests or approvals required for County and Engineer's acceptance of materials or equipment to be incorporated in the Work, or materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
- E. Alternately, in accordance with the solicitation documents, the County may assume all responsibility and costs associated with testing; this will be noted specifically.
  - 1. In the event that more than two (2) tests fail, County may at its discretion, charge the Contractor for all subsequent tests.
  - 2. Such charges may be deducted from the payment application.
- F. County may at their discretion perform additional testing and inspections as a means of quality assurance.
- G. Inspections, tests or approvals by the County/Engineer shall not relieve the Contractor's obligations to perform the Work in accordance with the requirements of the solicitation documents.
- H. Notice of Defects- Prompt notice of any defective Work of which County or Engineer have actual knowledge will be given to Contractor. All defective Work shall be rejected, corrected, accepted, or accepted with payment adjustments as determined by County.
- I. If any Work is covered contrary to the direction of the County, or if Work is covered prior to testing, Contractor shall uncover it for testing and/or observation by the County. Re-excavation, inspection, testing and replacement of any and all materials and items shall be at the Contractor's sole expense.
- J. If the County directs the Contractor to uncover work where inspections are not required, then
  - 1. The Contractor shall bear all costs for the re-excavation, inspection, testing, replacement and re-covering of the items if the work did not meet specifications, or
  - 2. If items do meet specifications, Contractor may solicit a Change Order to cover the additional work costs.
- K. Sub-grade, base-course, and asphalt testing shall be conducted by an AMRL (Aggregate Materials Reference Laboratory) certified technician. Cement and concrete testing shall be performed by an ACI (American Concrete Institute) certified technician for lab and field testing.

### **3.2.9 Correction of Work**

- A. The Contractor shall remove at the County's sole discretion from the premises and replace at the Contractor's sole expense all Work rejected by the Engineer or County

for failure to comply with the Contract documents, whether incorporated in the project or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract documents. Contractor shall pay claims, cost, losses, and damages caused by or resulting from such correction or removal including but not limited to all costs or repair or replacement of work by others.

- B. If the Contractor does not take action to remove such rejected Work within time specified after receipt of written notice, the County may remove or correct such Work and store the materials. If at the time the County removes or corrects such Work and stores materials and any amount of the Contract Price is then due and owing to the Contractor, the County may deduct from the amount owed to the Contractor the costs incurred by the County for such removal, correction and storage.
- C. In connection with such corrective and remedial action, County may exclude Contractor from all or part of the site, take possession of all or part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stores at the site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, County's representatives, agents, employees, County's other Contractors and Engineer and Engineer's Consultants access to the site to enable County to exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by County in exercising such rights and remedies will be charged against Contractor and a Change Order will be issued incorporating the necessary revisions in the Solicitation documents with respect to the Work; and County shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include by not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.
- D. In an emergency where delay would cause serious risk of loss or damage, County may have the defective Work corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement including but not limited to all costs of repair or replacement of work of others will be paid by Contractor.
- E. If instead of requiring correction or removal and replacement of defective Work, County with Engineer's recommendation prefers to accept it, County may do so. Contractor shall pay all claims, costs, losses and damages attributable to County's evaluation of and determination to accept such defective Work. If such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contractor documents with respect to the Work and County shall be entitled to an appropriate decrease in the

Contract Price. If acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to the County.

### **3.2.10 Patents**

- A. The Contractor shall pay on behalf of the County all applicable royalties and license fees. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless County from and against all claims, costs, losses and damages arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device whether it is specified or not in the Solicitation documents. However, if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, trademark or copyright, the Contractor shall be responsible for such loss unless the Contractor notifies the County upon discovery.
- B. Contractor shall indemnify, defend, or at its option, settle any claim or suit against County if such suit or claim is based on a patent, trademark, copyright or trade secret infringement resulting from the Work or use thereof provided that County, upon knowledge of a claim or potential claim of infringement, promptly notifies Contractor and provides Contractor all related information known to County. In the event of a claim of patent, trademark, copyright or trade secret infringement, Contractor agrees to keep County timely informed of material developments with respect to such claim. In the event that a court of competent jurisdiction adjudicates that the Work or any part of it does infringe a third party's patent, trademark, copyright or trade secret, or in the event that County is enjoined from using the Work or any part of it. Contractor shall, at its expense and option, do one of the following: 1) procure for County the right to use the Work or the affected part thereof, or 2) replace the Work or affected part thereof with other suitable work, or 3) modify the Work or affected part hereof to make it non-infringing, or 4) if none of the foregoing remedies are commercially feasible, refund the aggregate payments paid by County for the Work which the County is no longer permitted to use, or the affected part thereof, less reasonable amortization for use.

### **3.2.11 Surveys, Permits, and Regulations**

- A. From the information provided by the County, unless otherwise specified in the Solicitation documents, the Contractor shall develop and make all detailed surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.
- B. The Contractor shall carefully preserve benchmarks, property corners, reference points and stakes. When it becomes necessary by reason of construction to remove or obliterate any triangulation station benchmark, property corner, monument, stake, witness mark or other survey reference mark, it shall be the duty of the Contractor

to cause, at the Contractor's sole expense, the mark to be re-established by a registered surveyor in accordance with Section 61-23-28, NMSA 1978.

- C. Unless otherwise stated in the Solicitation documents or agreed to in writing by the County all permits and licenses necessary for the prosecution of the Work shall be secured and paid for by the Contractor. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations pertaining to the Work as required. If the Contractor observes that the Solicitation documents are at variance therewith, Contractor shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided herein. Changes in the Work. Contractor shall pay for all governmental changes and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening bids. Contractor shall pay all charges of utility connections and payment for use of said utilities for the Work.
- D. A Penetration Permit from the County is required prior to connecting to any gas, water, or sanitary sewer lines. Allow five (5) working days for the County to process the application after submitting. A copy of the Penetration Permit can be obtained from the Los Alamos County Department of Public Utilities (DPU), (505) 662-8130. DPU staff will perform all switching and valve operations.
- E. The Contractor will also need to prepare the plan and file the necessary documentation, obtain approvals, construct and maintain the Storm Water Pollution Prevention Plan (SWPPP) for all job sites, staging areas or other areas required prior to initiation of any site work.
- F. The Contractor will also need to submit and get approval of a Traffic Impedance Permit from the County of Los Alamos, prior to beginning construction as required. Contractor shall apply to the County of Los Alamos for a Traffic Impedance Permit at least ten (10) working days in advance of setting up traffic control signs or barricades for work efforts which will affect the flow of traffic. Contractor cannot proceed with construction until traffic control plans are approved.
- G. The Contractor shall obtain all New Mexico Environment Department (NMED) Air Quality Permits as required, as well as any other required permits including, but not limited to, asbestos abatement, lead abatement and other hazardous material permits in conjunction with the Work.
- H. County projects do not require an Excavation Permit
- I. Neither County nor Engineer shall be responsible for Contractor's compliance with any Laws or Regulations except where otherwise expressly required.
- J. All County permit fees shall be waived with the exception of Solid Waste fees.
- K. Work within the county limits after 9:00 pm and before 7:00 am require a Noise Ordinance Relief Permit. Contractor shall adhere to any restrictions imposed by the County.

### 3.2.12 Subsurface and Physical Conditions

- A. Any reports on subsurface and physical conditions are included in Section 3.5 Attachments. The County may not have conducted or contracted for Subsurface and Physical Condition Reports.
- B. Contractor may rely upon the general accuracy of the specific “technical data” contained in such reports and drawings and is provided as the best information at that time for the Contractor’s use. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against County, Engineer or any of Engineer’s Consultants with respect to:
  - 1. The completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto, or
  - 2. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings, or
  - 3. Any Contractor interpretation of or conclusion drawn from any “technical data” or any such data, interpretations, opinions or information.
- C. Notice of Differing Subsurface or Physical Conditions – if Contractor believes that any subsurface or physical condition at or contiguous to the site that is uncovered or revealed either:
  - 1. Is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided above is materially inaccurate, or
  - 2. Is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent of the character of Work provided in the Solicitation documents; then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing and Work in connection therewith (except in an emergency), notify County and Engineer in writing immediately about such condition. Contractor shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.
  - 3. County will promptly review the pertinent conditions, determine the necessity of obtaining additional exploration or tests with respect thereto and advise Contractor in writing of its findings and conclusions.
- D. Possible Contract Documents Change: If Engineer concludes that a change in the Contract Documents is required as a result of a condition that meets one or more of the categories in paragraph 3.3.16, a Change Order may be issued to reflect and document the consequence of such change.
- E. Possible Price and Times Adjustments: An equitable adjustment in the Contract Price or in the Contract Times, or both may be allowed to the extent that the existence of such uncovered or revealed condition causes and increase or decrease

in Contractor's cost of, or time required for performance of the Work subject to the following:

1. Such condition must meet any one or more of the categories described in paragraphs above;
  2. A change in the Contract Documents pursuant to Section 3, Changes in the Work will not be an automatic authorization of nor a condition precedent to entitlement to any such adjustment;
  3. With respect to Work that is paid for on a Unit price basis, any adjustment in contract price will be subject to provisions relating to unit prices;
  4. Contractor shall not be entitled to any adjustment in the Contract Price or Times if;
    - a. Contractor knew of existence of such conditions at the time Contractor made a final commitment to Owner in respect of Contract Price and Contract Times by the submission of a bid or becoming bound under a negotiated contract; or
    - b. The existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the site and contiguous areas required by the Solicitation Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
    - c. Contractor failed to give the written notice within the time and as required by Section 3, Changes in the Work.
    - d. County, Engineer and Engineer's Consultants shall not be liable to Contractor for any claims, costs, losses or damages sustained by Contractor on or in connection with any other project or anticipated project.
- F. Physical Conditions – Underground Facilities:
1. Shown or Indicated: The information and data shown or indicated in the Solicitation documents or subsequently located by the Active Underground Facilities locating service prior to excavation with respect to existing Active Underground Facilities at or contiguous to the site is based on the information and data furnished by the County of such Active Underground Facilities or by others. County shall not be responsible for the accuracy or completeness of such information or data provided in the Solicitation Documents. The Contractor shall be solely responsible for requesting the marking of the location of Active Underground Facilities by the locating service in accordance with the New Mexico Excavation Law prior to excavation. The cost of all of the following will be included in the Contract Price and Contractor shall have full responsibility for: reviewing and checking all such information and data, locating all Underground Facilities shown, or indicated in the Solicitation documents, or subsequently located by the Active Underground Facilities owner, coordination of the Work with the County of such Underground Facilities

during construction, and safety and protection of all such Underground Facilities and repairing any damage resulting from the Work.

2. Not Shown or Indicated: If any Active Underground Facilities or Abandoned Underground Facilities are uncovered or revealed at or contiguous to the site which was not shown or indicated in the Solicitation documents or was not subsequently located by the Active Underground Facilities owner in accordance with New Mexico exaction law Contractor shall, promptly after becoming aware of and before further disturbing conditions affected or performing any work in connection therewith (except in an emergency), give written notice to the County, if known, of the Underground Facilities Owner.
3. The Contractor will promptly review the Active or Abandoned Underground Facilities and determine, if possible, the owner of the Underground Facilities. The Contractor shall request that the owner of the Underground Facilities also investigate if the Underground Facilities are Active or Abandoned.
  - a. If the Underground Facilities are Active Underground Facilities the County shall determine the extent, if any, to which a change is required in the Contract documents to reflect and document the consequences of the existence of the Active Underground Facilities. During such time, Contractor shall be responsible for safety and protection of such Active Underground Facilities. Contractor may be allowed and increase in Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Active Underground Facilities that were not shown, indicated, or not subsequently located by the owner of the Active Underground Facilities prior to excavation, and that the Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated.
  - b. If the Underground Facilities are Abandoned Underground Facilities, and they interfere with the excavation or Work by the Contractor, the Contractor is not eligible for an increase in cost. The Abandoned Underground Facilities can be removed or allowed to remain with steps taken to work around the Abandoned Underground Facilities such as cutting, removing and capping the ends.
  - c. If any Abandoned Underground Facilities are transite asbestos pipe or conduit removal, if required or selected by the Contractor, shall be completed and no additional payment will be granted to the Contractor for the proper removal and disposal per the appropriate local, State, and federal regulations.

### **3.2.13 Protection of Work, Property and Persons**

- A. The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The items below shall be included in the Contractor's Safety Management Plan. Contractor will take all

necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees, County staff or agents, and public on the Work, including but not limited to:

1. Required personal safety equipment for personnel and visitors within the work zone;
2. Proper operation of equipment and power tools;
3. Proper maintenance of equipment and power tools;
4. Protection of personnel and public within excavation areas;
5. Protection of personnel occupying confined spaces;
6. Welding;
7. Fall protection;
8. Procedures in the event that suspected hazardous materials are encountered and procedures to be used by Contractor and Subcontractors for handling and coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with applicable Laws and Regulations;
9. Precautions for lifting and maneuvering heavy objects;
10. Emergency procedures in the event of wildfire or other fire;
11. Emergency procedures in the event of injury;
12. Emergency procedures in the event of a line break (water, sewer, gas, power, etc.)
13. Flooding;
14. Excavating, trenching, shoring, sheeting, and bracing protection;
15. Pre-job safety planning
16. Designation by Contractor of a qualified and experienced safety representative whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs;
17. Implementation of safety plan for subcontractors;
18. Safety meetings;
19. Procedures for encounters with wildlife, including snakes.

### **3.2.14 Changes in the Work**

- A. The County may at any time, as the need arises, order changes within the scope of the Work without invalidating the Contract. If such changes increase or decrease the amount due under the Contract documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order mutually agreed to by the County and Contractor.
- B. The County may at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the Work so ordered by the County, unless the Contractor believes that such Field

Order entitles the Contractor to a change in the Contract Price or Time, or both, in which event the Contractor shall give the County written notice within seven (7) calendar days after the receipt of the Field Order. Thereafter the Contractor shall document the basis for the change in Contract Price or Time within thirty (30) calendar days. The Contractor shall not execute such changes until receipt of an executed Change Order or further instruction from the County followed by the executed Change Order. .

- C. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the original solicitation documents or as amended or modified except in the case of an emergency.
- D. The value of any Work covered by a Change Order or any claim for an adjustment in the Contract Price will be determined as follows:
  - 1. Where the Work involved is covered by unit prices contained in the Solicitation documents, by application of such unit prices to the quantities of the items involved.
  - 2. Where the Work involved is not covered by unit prices contained in the Solicitation documents, by a mutually agreed lump sum.
- E. Force Account -In the event that an agreed upon price or time cannot be reached, Contractor, when directed, shall proceed on a Force Account (Time and Materials) basis and document all costs and time incurred by the work. Force Account shall include a not-to-exceed amount. Costs shall include all direct and indirect labor, equipment and materials and shall be based on:
  - 1. Actual costs for labor, direct overhead, materials, supplies, equipment, and other services required to complete the work;
  - 2. In addition there shall be an amount agreed upon, but not to exceed fifteen percent (15%) of the actual cost of such work to cover the cost of general overhead and profit;
  - 3. Contractor shall establish and maintain records in accordance with generally accepted accounting practices and submit in a form acceptable to the County an itemized cost breakdown together with supporting data, agreed to at the end of each day by the Project Manager and Contractor.
- F. Cost of Work: The term Cost of Work means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by County, such costs shall include only the following items and shall not include any of the costs itemized in G below.
  - 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by County and Contractor. Such employees shall include without limitation superintendents, foreman, and other personnel employed full time at the site. Payroll costs for employees not employed full time on the Work shall be

- apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work after regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by County.
2. Cost of materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and Supplier's field services required in connection. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to County and Contractor shall make provisions so that they can be obtained.
  3. Payments made by the Contractors to the Subcontractors for Work performed or furnished by Subcontractors. If required by County, Contractor shall obtain competitive bids from subcontractors acceptable to County and Contractor shall deliver such bids to County who will then determine which bids, if any, will be accepted. All subcontracts shall be subject to other provisions of the Solicitation documents insofar as applicable
  4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
  5. Supplemental costs including the following:
    - a. The proportion of necessary transportation, travel and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
    - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain property of Contractor.
    - c. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by County with the advice of Engineer, and the costs of transportation, loading, unloading, installation, dismantling and removal; all in accordance with the terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.
    - d. Sales, consumer, or similar taxes related to the Work, and for which Contractor is liable, imposed by laws and regulations.
    - e. Deposits lost for causes other than negligence of Contractor, any subcontractor or anyone directly or indirectly employed by any of them or

for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by the County), provided loss has resulted from causes other than the negligence of Contractor, any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of County. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee. If, however any such loss or damage requires reconstruction and Contractor is placed in charge thereof, Contractor shall be paid for service a proportional fee as stated above.
  - g. The cost of utilities, fuel and sanitary facilities at the site.
  - h. Cost of premiums for additional bonds and insurance required because of changes in the Work.
- G. The term Cost of Work shall not include any of the following:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor whether at the site or in Contractor's principal or a branch office for general administration of the Work which are to be considered administrative cost covered by the Contractor's fee.
  - 2. Expenses of Contractor's offices other than Contractor's office at the site.
  - 3. Any part of Contractor's capital expenses, including interest and charges for delinquent payments.
  - 4. Original cost of premiums for all Bonds and for all insurance required by the Bid documents to purchase and maintain the same
  - 5. Costs due to the negligence of Contractor, any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
  - 6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included herein.
- H. The Contractor's fee allowed to Contractor for general overhead and profit shall be determined by an amount not to exceed fifteen percent (15%) of the Cost of Work described above.

- I. For work performed by Sub-contractors the Contractor's fee shall not exceed 5%.
- J. No fee will be allowed for cost of special consultants and supplemental costs as described above.

### **3.2.15 Suspension, Delay or Termination of Work**

- A. At any time and without cause, County may suspend the Work or any portion thereof for a period of not more than 90 days per event by notice in writing to Contractor which will fix the date on which Work may be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be allowed an adjustment in the Contract Price or an extension of the Contract time or both, directly attributable to any such suspension of work, if Contractor receives an approved change order as provided herein.
- B. The County, at its sole discretion may terminate the Contract if the Contractor:
  - 1. Is determined to be and adjudged to be bankrupt or insolvent;
  - 2. The Contractor makes a general assignment for the benefit of the Contractor's creditors;
  - 3. A trustee or receiver is appointed for the Contractor for any of the Contractor's property;
  - 4. The Contractor files a petition to take advantage of any debtor's act, to reorganize under the bankruptcy or applicable laws.
  - 5. Contractor fails to perform the Work in accordance with the Contract Documents including but not limited to:
    - a. The Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment,
    - b. The Contractor repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment.
    - c. The Contractor disregards laws, ordinances, rules, regulation or orders of any public body having jurisdiction over the Work,
    - d. The Contractor disregards the authority of the County,
    - e. The Contractor otherwise violates any provision of the Contract Documents.
- C. The County may, without prejudice to any other right of surety, within a minimum of ten (10) calendar days from delivery of a written notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery owned by the Contractor, and finish the Work by whatever method the County may deem expedient or at County's sole discretion may elect to suspend the work or any portion thereof until the cause for such order has been eliminated. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished.
- D. Contractor shall be paid for Work completed in accordance with the Contract Documents.

- E. If an agreement cannot be reached and the County hires a different Contractor to complete the remaining work or the work is completed by a different means:
  - 1. The resulting costs incurred by the County will be determined by the County
  - 2. If such costs exceed such unpaid balance, the County will request that Contractor pay the difference to the County.
  - 3. If the Contractor refused to pay the difference to the County, the County may terminate the contract and request payment directly from the Contractor's bonding company.
  - 4. Any unpaid balance of the current Contract Price that exceeds the direct and indirect cost of completing the Work, including compensation for additional professional services, shall not be paid to the Contractor.
- F. Where the Contractor's services have been terminated by the County, said termination shall not affect any right or claim of the County against the Contractor existing at that time or which may thereafter accrue. Any payment by the County due the Contractor will not release the Contractor from compliance with the Contract. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- G. After ten (10) calendar days from delivery of a written Notice to the Contractor from the County, the County may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all Work executed in conformance with the Contract plus reasonable profit.

### **3.2.16 Subcontracting**

- A. The Contractor may utilize the services of specialty subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty subcontractors. The County must approve the use of any subcontractor.
- B. The Contractor shall not award Work to subcontractor(s), in excess of fifty percent (50%) of the Contract Price, without prior written approval of the County.
- C. The Contractor shall be fully responsible to the County for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is responsible for the acts and omissions of persons directly employed by the Contractor.
- D. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind subcontractors to the Contractor by the terms of the solicitation documents insofar as applicable to the Work of subcontractors and to give the Contractor the same power to terminating any subcontract that the County may exercise over the Contractor under any provision of the Contract.
- E. Nothing contained in this Contract shall create any contractual relation between any subcontractor and the County.

### **3.2.17 Duties of the Contractor**

- A. The Contract contains the provisions required for the construction of the Project. Information obtained from an officer, agent, or employee of the County or another person shall not affect the risks or obligations assumed by the Contractor or relieve Contractor from fulfilling any of the conditions of the Contract. The Contract requires performance of services entirely at the Contractor's risk and Contractor has agreed to indemnify the County from all claims, demands, and actions, arising from the Contractor's actions, errors, or omissions.
- B. The Contractor will supervise and direct all work to be performed pursuant to this Contract. Contractor will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor will employ and maintain at the project site a qualified Superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site and who shall not be replaced without written notice to County.
- C. The Superintendent shall be considered an agent of the Contractor and shall have full authority to act on behalf of the Contractor and all communications given to the Superintendent shall be as binding as if given to the Contractor. The Superintendent shall be present on the site at all times as required to perform adequate supervision and coordination of the services provided pursuant to this Contract. Superintendent shall not be replaced without written approval of the County.
- D. If at any time Contractor or any subcontractor is suspended or debarred from conducting business with any city, county, state or federal government, Contractor has continuing obligation to promptly notify County. County has the option to terminate Contract or require a different subcontractor at no additional cost to the County.
- E. Superintendent shall track on a daily basis all labor (including classifications), equipment and materials used on site. Superintendent shall communicate this information to the Project Manager or representative. Superintendent and Project Manager shall agree on this usage.
- F. Contractor shall provide competent, suitably qualified personnel to survey, lay out and construct the Work as required by the Contract. Contractor shall at all times enforce strict discipline and good order among all workers at the sites and shall not employ on the Work any unfit person or anyone not skilled in the work assigned to them.
- G. Contractor shall be responsible to see that the completed Work complies accurately with the Contract.
- H. Contractor shall abide by the Los Alamos County Harassment Policy and Procedures #1120.

### **3.2.18 Job Site Administration**

- A. The Contractor is responsible for orderly use and cleanup of all job sites including staging areas and all areas affected by the project to the satisfaction of the County. Outdoor storage space may be obtained by the Contractor at its sole expense.
- B. The County may authorize by the Staging Area License, Contractor's use of land owned by the County. Contractor shall comply with the terms of written agreements.
- C. Construction materials and equipment such as tools, scaffolds, forms and excess material not in use shall be stored or stacked in neat order at the contractor's storage site. Contractor shall at all times as part of its services, keep the sites free from accumulation of waste materials or rubbish caused by Contractors operations.
- D. Contractor shall provide trash receptacles sufficient in number to accommodate all refuse generated within the property and provide for their regular and routine maintenance and servicing. At the completion of the services to be performed in the Contract, Contractor shall remove Contractor's waste materials and rubbish from and about the project, as well as all Contractor's tools, construction equipment, machinery and surplus materials and shall clean all surfaces.
- E. Contractor may provide lighting as necessary for security and safety of materials and equipment. Such lighting shall be down directed and approved by the Project Manager.
- F. Contractor shall provide portable toilets at all job sites sufficient in number to accommodate all waste generated within the site and provide for their regular and routine maintenance and servicing.
- G. Contractor shall restore to original condition all affected property not designated for alteration by the Contract.
- H. Services performed pursuant to this Contract are not to unduly interfere with the County's normal operation and maintenance.
- I. Contractor shall be responsible for all areas of the project used by the Contractor, subcontractors, suppliers or other involved in performance of the services to be performed in the Contract.
- J. Contractor shall have the right to exclude all who have no purpose or function related to the performance or inspection of the services, except personnel employed by the County or other governmental agencies. Contractor may require all persons on the site of the work to observe all regulations that the Contractor requires of its employees. Contractor will exert full control over the site and personnel with respect to use, safety and preservation of property and the existing facilities, except for controls as reserved to County or others.
- K. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the Bid documents and other land and areas permitted by Laws and Regulations. Contractor shall assume full responsibility for any damage to any such land or area or to the owner or occupant thereof or of any adjacent land or

areas, resulting from the performance of the Work. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly resolve such claim by negotiation or other proceeding at law.

- L. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless County against all claims, costs, losses and damages arising out of or resulting from any claim or action, legal or equitable, brought by any such owner or occupant against County, Engineer or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.
- M. Contractor shall be responsible for all materials brought to the job sites by the Contractor, its subcontractors or agents.
- N. Hazardous waste shall be properly stored and disposed in accordance with applicable laws and regulations. The Contractor shall promptly remove all spilled or splattered materials from surfaces to prevent marring, staining, or damage. Adequate clean-up will be evaluated prior to all applications for progress payment.
- O. County shall have the right to enter the premises for the purpose of doing work not covered by the Contract. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work or the restoration of any damaged Work except such as may be caused by agents or employees of the County.
- P. County may perform other work related or unrelated to the Project on the premises using County's own employees, other utility owners, or let other contracts for the performance of work. If there is such work to be performed that was not noted in the Contract, written notice shall be given to the Contractor prior to the start of such work. As directed by the County, Contractor shall provide proper and safe access to the County, contractors and utility owners to the premises and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work.
- Q. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of County and the others whose work will be affected.
- R. Gas and Oil Storage, Service Areas, Concrete Batch Plant, Caretaker Dwelling Units- County shall approve the location of equipment areas, gas and oil storage areas, service areas, concrete batch plant and caretaker dwelling units in writing. Contractor shall clear all areas of brush, litter, grass and all other flammable debris for a radius of 50 feet. Caretaker dwelling units subject to approval by County.
- S. Prevention of Oil Spills – If Contractor maintains storage facilities or uses flammable or combustible liquids in the project area, Contractor will provide to the Fire Marshall an operational plan that addresses the use and appropriate measures which will address soil containment and clean-up. Pollutants such as fuels, lubricants and other harmful materials shall not be discharged on the ground.

- T. Contractor, at its sole expense, shall immediately take action to contain and clean up all potentially hazardous spills in the performance of this Contract which are caused by Contractor's employees directly or indirectly as a result of subcontractor operations and shall immediately report to County and all applicable agencies,. Contractor will be held liable for all damages and costs of additional labor, equipment, supplies, and transportation deemed necessary by the County for the containments and cleanup of potentially hazardous spills caused by Contractor's employees or resulting from subcontractor operations.
- U. Control of Sources of Ignition – When Contractor uses any process that requires an ignition source, Contractor must provide a plan outlining the process and prior approval must be granted by the Fire Marshall before any ignition source is used within the project area. Areas where welding cutting, burning, or grinding is occurring are to be shielded to prevent flying sparks and debris. Fires shall not be built on the premises.
- V. Communications – The Contractor's communication system shall provide prompt and reliable communications between Contractor's crews. Owner shall be able to communicate with Contractor 24/7; Contractor shall be responsive to phone calls and return calls within fifteen (15) minutes.
- W. Contractor shall conduct all activities associated with this project in such a manner that there will not be any adverse impact to archeological sites, trails, identified natural features, fences, gates and private property.
- X. Contractor shall be responsible for all damage to property and to persons, including third parties that occur as a result of its or its agents or employees or subcontractor or subcontractor's employees fault or negligence.
- Y. Contractor shall cooperate with the owner of all utilities in removal and or rearrangement operations in order that these operations may progress in a reasonable manner and services shall not be unnecessarily interrupted.
- Z. In the event of interruption to utility services because of accidental breakage or as a result of lines being exposed or unsupported, Contractor shall promptly notify Project Manager and owner of the utility and shall cooperate with owner in the restoration of services. If utility services are interrupted, cooperation shall be required until service is restored.
- AA. Contractor shall protect all streets, private roads and sidewalks, and shall make all necessary repairs for damage incurred during course of the work at Contractor's own expense.
- BB. Contractor shall provide proper protection of all furnishings and fixtures likely to be damaged. When exterior openings are made, they shall be covered with weather tight protection at the end of the day's work.
- CC. Contractor shall take suitable precautions to protect existing trees, shrubs, and other natural vegetation and fences during construction. The Contractor shall restore the area to permit re-vegetation of the area. This includes restoring the area to pre-

- existing contours, reducing soil compaction by scarification, and mitigating for the effects of runoff. Any fences that need to be removed must be placed or dealt with as specified in Contract Documents. Contractor shall reseed disturbed areas in accordance with NMDOT Specifications or as specified in the Contract Documents.
- DD. The County will allow Contractor metered usage of water required for construction, to the extent of existing facilities. The Contractor shall obtain a water meter from the Los Alamos County Department of Public Utilities (DPU). Payment to the Utilities Department for the quantity of water used at the prevailing rate will be due before final acceptance of the project. A deposit for the water meter is required by DPU.
- EE. Contractor shall remove all snow and ice as may be required for the proper protection and performance of the Work and access to job site. Snow and ice shall also be removed by the Contractor from active work zones open to the public.
- FF. Contractor shall provide all shoring, bracing, and sheathing as required for safety and for proper execution of the work and have some removed when work is completed.
- GG. Contractor shall provide installation and maintenance of necessary precautions to protect all personnel on the site, including members of the general public from injury or harm, including but not limited to posting of appropriate warning signs in hazardous areas.
- HH. Contractor shall at all times provide protection against weather (rain, wind, storms, frost, floods or heat) so as to maintain all Work, materials, apparatus, private property and fixtures free from injury or damage. At the end of the day's work, all new Work likely to be damaged shall be protected.
- II. During cold weather, Contractor shall protect all work from damage. If low temperatures make it impossible to continue operations safely in spite of cold weather precautions, Contractor shall cease work and so notify County.
- JJ. Contractor may, as part of its work, provide and erect one sign with a minimum size of 2' x 2' with a maximum size of 4' x 8', with the Contractor's name, license number, address and telephone number and locate sign as approved by the County. No other sign or advertisement shall be displayed by the Contractor unless requested or approved by the County.

### **3.2.19 Engineer's Authority**

The Engineer or the Engineer's designated representative may:

- A. Recommend, disapprove, or reject Work which Engineer believes to be defective or will not produce a completed Project that conforms to the Technical Specifications and Contract Drawings or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Technical Specifications and Contract Drawings or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Technical Specifications and Contract Drawings require special inspection or testing of the Work, whether or not the Work is fabricated, installed or completed.

- B. The Engineer or representative may be on site during construction and determine if the Work is proceeding in accordance with Technical Specifications and Contract Drawings. Duties and responsibilities of Engineer may be modified by County as needed.
- C. Inspections may be made at the factory or fabrication plant of the source of material supply.
- D. The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.
- E. As requested by County or Contractor, Engineer will issue to both County and Contractor with reasonable promptness written clarifications or interpretations of the requirements of the Technical Specification and Contract Drawings (in the form of Drawings or otherwise), which shall be consistent with intent of and reasonably inferable from Technical Specifications and Contract Drawings.
- F. Engineer may authorize minor variations in the Work from the requirements of the Technical Specifications and Contract Drawings which do not involve an adjustment in the Contract Price or the Contract Time and are compatible with the design concept of the completed Project as a functioning whole as indicated by a Field Order and will be binding on the County and also on Contractor who shall perform the Work involved promptly.
- G. Engineer will review and approve Shop Drawings, Samples and submittals in accordance with the schedule of submittals accepted by Engineer. Engineer's review and approval will only be to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Technical Specifications and Contract Drawings and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Technical Specifications and Contract Drawings. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, unless explicitly specified or related to applicable safety precautions or programs. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. Contractor shall make corrections required by the Engineer and shall return the required number of corrected copies of the Shop Drawings and submit as required new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
- H. Engineer may assure the quality of work through independent testing. Engineer shall provide test results to the Contractor and copy the Project Manager.

### **3.2.20 Duties, Responsibilities and Limitations**

Duties, responsibilities and limitations of authority of the Resident Project Representative (RPR).

- A. General – RPR is the Engineer's representative at the site, and will act as directed by and under the supervision of Engineer and will confer with Engineer regarding

RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with Engineer and Contractor keeping County advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with County with the knowledge of and under the direction of Engineer.

- B. Schedules – Review the progress schedule, schedule of submittals and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
- C. Conferences and Meetings – Attend meetings with Contractor, such as pre-construction conferences, progress meetings, job conferences and other project related meetings and prepare and circulate copies of meeting minutes.
- D. Liaison – Serve as Engineer's liaison with Contractor, working principally through Contractor's Superintendent and assist in understanding the intent of the Technical Specifications and Contract Drawings and assist Engineer in serving as County's liaison with Contractor when Contractor's operations affect County's on-site operations.
- E. Assist in obtaining from County additional details or information when required for proper execution of the Work.
- F. Advise Engineer and Contractor of the commencement of any Work requiring a Shop Drawing or Sample, if the submittal has not been approved by Engineer.

### **3.2.21 Engineer's Review of Work, Rejection of Work, Inspections, and Tests**

- A. Verify that tests, equipment and systems startups, operating and maintenance training are conducted in the presence of appropriate personnel and that Contractor maintains adequate record thereof, record and report to County appropriate details relative to the test procedures and startups.
- B. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project; record the results of these inspections and report to County.
- C. Modifications – Consider and evaluate Contractor's suggestions for modification in Drawings or Specifications and report with RPR's recommendations to County. Transmit to Contractor decisions as issued by County.

### **3.2.22 Limitations of Authority**

#### **Resident Project Representative shall not:**

Authorize any deviation from the Technical Specifications and Contract Drawings or substitution of materials or equipment, unless authorized by County and approved by County.

- A. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
- B. Undertake any of the responsibilities of Contractor, subcontractors or Contractor's Superintendent.
- C. Advise on or issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such

advice or directions are specifically required in the Technical Specifications and Contract Drawings.

- D. Advise on or issue directions regarding, or assume control over safety precautions and programs in connection with the Work.
- E. Accept Shop Drawings or sample submittals from anyone other than Contractor.
- F. Shall not authorize County to occupy the Project in whole or in part.
- G. Participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by County.

### **3.2.23 Land and Right-of-Way**

- A. The County shall provide to the Contractor information which delineates and describes the land owned and rights-of-way acquired.
- B. The Contractor may provide at the Contractor's own expense and without liability to the County any additional land and access thereto that the Contractor may desire for temporary construction facilities or for storage of materials.

### **3.2.24 Warranty/Guaranty**

- A. The Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date established as Final Completion or as specified in the Technical Specifications. The Contractor warrants and guarantees for a period of one (1) year from the date of Final Completion that the completed Work is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defects. The Contractor shall pay for any and all costs associated with correcting these defects, including but not limited to shipping, travel, labor and parts to repair and or replace the Work. The County will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments or other Work that may be made necessary by such defects, the County may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through this one (1) year warranty/guarantee period.
- B. All materials shall be of good quality and new. All warranties and guarantees specifically called for by the Specifications shall be provided in writing and expressly run to the benefit of County.
- C. Where defective Work (and damage to other Work) has been corrected, removed or replaced, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- D. All representations, indemnifications, warranties, and guarantees made in, required by or given in accordance with the Contract documents, as well as all continuing obligations indicated in the Contract documents, will survive the final payment,

completion and acceptance of the Work and termination or completion of the Agreement.

- E. The Contract shall cover defects which shall be in existence during such two-year period but which shall not become apparent until thereafter.
- F. Contractor shall be fully responsible for all direct, indirect and consequential costs to the County approximately caused by such defects in materials or workmanship including defects in materials or workmanship supplied to the Contractor by a subcontractor or supplier. Contractor shall also hold the County harmless from liability of any kind arising from damage due to said defects.
- G. Contractor shall make all repairs and replacements or payments promptly upon receipt of written order from the County. If Contractor fails to make the repairs, replacements or payments promptly, County may do the work and Contractor and the Contractor's Surety shall be liable for cost thereof, including but not limited to, fees and charges for engineers, architects, attorneys and other professionals.
- H. County will schedule an inspection eleven (11) months after the Final Completion date, providing Contractor with a minimum of one (1) week notice unless the County and Contractor mutually agree to other arrangements. Owner will contact Contractor to report and schedule any further warranty work as provided herein.

### **3.2.25 Miscellaneous**

- A. Taxes – Contractor shall be responsible for the payment of all applicable taxes, including but not limited to the State of New Mexico Gross Receipts Tax.
- B. Independent Contractor – The relationship of the Contractor to the County shall be that of an independent contractor. The Contractor and all employees and subcontractors of the Contractor, shall not be deemed agents or employees of the County. This agreement shall not be construed as a joint venture or partnership between the parties hereto. Nothing in this Agreement burdens the County with the duties of an employer concerning Contractor or any employee or subcontractor of the Contractor, under any state workers' compensation laws, any state or federal occupational health and safety laws or any other state or federal laws.
- C. Contractor's Authority – Contractor shall not enter into any agreement with any person which binds or is intending to bind County to any duty or obligation unless the County has given Contractor prior written consent to represent the County in such matter. Nor shall Contractor make representations to any person which indicate that Contractor is acting on behalf of the County without the County's prior written consent.
- D. Contractor its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards or in any other manner bearing County's name or logo.

### **3.2.26 Dispute Resolution, Applicable Law, and Venue**

- A. Arbitration – This agreement is not subject to arbitration.
- B. Dispute Resolution Procedure – The Contractor shall submit in writing to the Purchasing Agent, any claim unresolved by the County concerning performance by the parties, in accordance with Los Alamos County Procurement Code, Section 31-232 – Contract Claims. Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with County. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as County and Contractor may otherwise agree in writing.
- C. Applicable Law, Venue – Contractor and County agree that the laws of New Mexico and County Ordinances shall govern any dispute or claim arising from the Contract or the rights, duties and obligations created therein. Contractor and County further agree that all court actions shall be filed and pursued in New Mexico courts, unless the parties mutually agree to a different forum. Venue shall be in the First Judicial Court of New Mexico, Los Alamos, New Mexico.
- D. If the surety on any Bond furnished by the Contractor is declared as bankrupt or becomes insolvent or its right to do business is terminated in New Mexico or it ceases to meet the requirement in Los Alamos Ordinances, Contractor shall within 10 calendar days thereafter substitute another Bond and surety, both of which must be acceptable to County.
- E. When any period of time is referred to in the Contract documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of such period falls on a Saturday or Sunday or on a day made a legal holiday by Los Alamos County, such day will be omitted from the computation. A calendar day of twenty-four hours measured from midnight to the next midnight will constitute a day.

### **3.2.27 Examination of Records Provisions**

- A. The Contractor agrees that the County, and any authorized representative of the County, shall, until the expiration of six (6) years after acceptance of final payment of the Contract Price, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions relating to this Contract.

### **3.2.28 American with Disabilities Act Compliance**

- A. The Contractor will comply with all relevant provisions of the Americans with Disabilities Act, as well as with the New Mexico Human Rights Act, and all other applicable local, state, and federal laws governing the rights of the disabled.

### **3.2.29 A. Bids and Proposals are public Records**

Pursuant to the New Mexico Inspection of Public Records Act NMSA- 1978, Chapter 14, Article 2, all materials submitted under this IFB shall be presumed and

considered public records. Except to the extent any information may be protected by state or federal law, bids shall be considered public documents and available for review by the public.

**3.2.30 Wage Rate Determination**

- A. Issuance of the following wage rate determination is done pursuant to Section 13-4-11 N.M.S.A. 1978, as amended, or such successor statute and with duly adopted rules and regulations properly registered with the Supreme Court, as required by law, and other statutes pertaining to public works in New Mexico.
- B. Each certified payroll shall have the correct Wage Rate Decision Number printed clearly on the first page. The Contractor and all Subcontractors shall also submit certified payrolls. Prior to the issuance of a Certificate of Payment, the Contractor shall determine that a certified payroll has been submitted to the State Labor Commission as provided for by State law and that all other provisions applicable to and relating to the payment of wages to artisans, draftsmen, laborers has been abided by and that said payments have been made in accordance with established scales as furnished by the State Labor Commission for this particular contract.

**3.3 ATTACHMENTS**

### 3.3.1 License Agreement for Staging Area

**THIS LICENSE AGREEMENT** (Agreement) is entered into by and between the **Incorporated County of Los Alamos (County)** and **Contractor, a New Mexico Corporation** to be effective for all purposes on \_\_\_\_\_.

#### **A. PURPOSE**

The purpose of this Agreement is to grant to CONTRACTOR the revocable privilege of using County properties (Properties), more specifically described herein, for staging areas to facilitate CONTRACTOR'S work on **Los Alamos County Project No. IFB24-57 Kinnikinnik Park Trail ADA Improvements Project**. The County's grant of this revocable privilege shall satisfy County's obligation to provide CONTRACTOR with staging areas under the above-identified Project.

#### **B. TERM**

This Agreement shall commence on \_\_\_\_\_ and shall continue until CONTRACTOR'S work under the above-referenced Project is substantially complete, unless sooner terminated as provided herein.

#### **C. USE OF THE PREMISES**

County grants to CONTRACTOR the use of the property described herein for staging area to include the placement, unless specifically excluded herein one (1)-caretaker unit, the storage of Project related materials, and the storage of Project related equipment, and for no other purpose. Caretaker units shall not exceed eight (8) feet by forty (40) feet and may be used as a dwelling unit for CONTRACTOR'S personnel with a maximum of two (2) occupants per unit.

#### **D. GENERAL REQUIREMENTS APPLICABLE TO ALL PROPERTIES**

The following requirements are applicable to all Properties unless specifically addressed or modified in Section E. Specific Properties herein: CONTRACTOR shall:

1. Provide properly anchored portable toilets sufficient in number to accommodate all waste generated within the Property. Locate portable toilets as far as possible away from residential development and provide for their regular and routine maintenance and servicing;
2. Provide covered trash receptacles sufficient in number to accommodate all refuse generated within the property and provide for their regular and routine maintenance and servicing;
3. May provide sufficient lighting necessary for security and safety of persons, material and equipment as well as for the security and safety of the public. Such lighting shall be down directed and produce no glare and conform to the New Mexico Dark Sky Act;
4. Provide and maintain a protective buffer between staging activities and nearby water courses;
5. Provide Good housekeeping measures as outlined in the Storm Water Pollution Prevention Plan (SWPPP) will be adhered to at all times;
6. Provide any applicable utility hook-ups at contractor's coordination and expense;
7. Provide storm water pollution protection and management at his/her expense;

8. Ensure staging area boundaries do not encroach onto other properties or open space.

### **E. SPECIFIC PROPERTIES**

The following specific Properties, including specific uses or limitations to such use, are designated as staging areas for use by CONTRACTOR in conformity with the contract documents and this License.

**STAGING AREA:** **An area near the site as coordinated with the Contractor and County Project Manager** (Contractor accepts to use area by initialing: \_\_\_\_\_)

Site-specific requirements are as follows:

1. Weather resistant Information Board for posting required information such as prevailing wage rates, Need to Know information, Notice of Intent, Safety Info, etc.;
2. Fuel storage tank is **not** permitted;
3. Limited Repair of vehicles and equipment is permitted as per SWPPP;
4. Clearing and grubbing is **not** permitted;
5. Grading of the property is **not** permitted;
6. Fencing exists but Contractor is responsible for providing additional security if deemed necessary by the Contractor. Optional lighting to the extent that surrounding homes are not affected by glare is permitted; to be approved by Project Manager;
7. All materials and equipment must be confined within the defined area;
8. Limited storage space of traffic control devices and storage containers is permitted;
9. Maximum of two (2) portable toilets are permitted;
10. Contractor shall provide adequate dust control at proper frequencies within the staging area;
11. Sweep Staging area *as needed*.

### **G. ASSIGNMENT**

This License is not assignable.

### **H. RECORDS**

CONTRACTOR shall maintain throughout the term of this License records necessary to demonstrate that all of the terms and conditions of the License have been met, including but not limited to records relating to any necessary licenses, permits, and other "authorizations" and compliance with any and rules, regulations, requirements or guidelines applicable to CONTRACTOR'S use of the Properties. CONTRACTOR shall make available for inspection by County all records, books of account, memoranda and other documents pertaining to County immediately upon request of County.

### **I. STRUCTURES, IMPROVEMENTS, ALTERATIONS OR ADDITIONS**

Except as specifically permitted or required herein, no structures, improvements, alterations or additions shall be permitted on the Properties without the prior written authorization of County. CONTRACTOR shall maintain and leave the" Properties in a clean condition, free of debris and litter, and restored to their prior condition or as close thereto as is reasonably practicable.

### **J. LIABILITY**

County shall not be liable for any cost of expense or any kind or nature with respect to this License or CONTRACTOR'S use of the Properties, CONTRACTOR shall promptly pay all costs and

expenses associated with CONTRACTOR'S use of the Properties including, without limitation, the cost of utility services and fencing. CONTRACTOR shall assure; and provide evidence to County that the insurance maintained by CONTRACTOR under its Contract the performance of work **IFB24-57** is applicable to and will cover losses resulting from the use of the Properties. CONTRACTOR agrees to indemnify, defend, and hold County harmless from any liability, damage, loss, injury, cause of action, and costs and expenses (including attorneys' fees), of any kind or nature, arising from or in any way related to the use of the Properties, including but not limited to, any liability, damage, loss, injury, cause of action, or costs and expenses (including attorneys' fees) arising from or in any way related to any actual, threatened or alleged disposal, release, or contamination by hazardous substances of the Properties by CONTRACTOR its employees, subcontractors and agents. CONTRACTOR'S obligations under this Section shall survive the expiration or termination of the License.

**K. SAFETY**

CONTRACTOR shall assure that all of its operations conducted on the Properties are performed in a safe manner.

**L. COUNTY ACCESS TO PROPERTIES**

County and its designated representatives shall have access to the Properties at all times. CONTRACTOR shall notify County immediately of any situation that may arise on the Properties that may cause damage or harm to the health, welfare or safety of the public or to the environment and property of County and shall fully cooperate with County in addressing any such situation.

**M. APPLICABLE LAWS**

CONTRACTOR shall comply with all federal, state, and local laws, regulations, ordinances and, other legal requirements applicable to CONTRACTOR'S use of and activities on the Properties. This License shall be construed and enforced according to the Laws of the State of New Mexico.

**N. CANCELLATION AND VACATION OF THE PROPERTIES**

County may, at its sole discretion immediately cancel this License or any part hereof at any time with or without cause and no further use shall be made of the Properties by CONTRACTOR. Failure of County to fully enforce any and all provisions of this License shall not constitute a waiver of any future breach of any such terms or provisions. Upon expiration or cancellation of this License, the CONTRACTOR shall remove within seven (7) days all equipment, tools, vehicles, and any other property belonging to the CONTRACTOR from the Properties and shall leave the Properties in clean condition, free of debris and litter and restored to its prior condition or as close thereto as reasonably practicable.

**ATTEST:**

**INCORPORATED COUNTY OF LOS ALAMOS**

\_\_\_\_\_  
**Naomi D. Maestas**  
**County Clerk**

\_\_\_\_\_  
**Steven Lynne**  
**County Manager**

**Approved as to Form**

\_\_\_\_\_

**J. Alvin Leaphart  
County Attorney**

\_\_\_\_\_  
**Contractor**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

### 3.3.2 Wage Rate Information



**LABOR RELATIONS DIVISION**

401 Broadway NE  
 Albuquerque, NM 87102  
 Phone: 505-841-4400  
 Fax: 505-841-4424

226 South Alameda Blvd  
 Las Cruces, NM 88005  
 Phone: 575-524-6195  
 Fax: 575-524-6194

**WWW.DWS.STATE.NM.U  
 S**

### Wage Decision Approval Summary

1) Project Title: Kinnikinnik ADA Trail  
 Requested Date: 01/18/2024  
 Approved Date: 01/19/2024  
 Approved Wage Decision Number: LA-24-0218-A

**Wage Decision Expiration Date for Bids: 05/18/2024**

2) Physical Location of Jobsite for Project:  
 Job Site Address: 2760 Canyon RD,  
 Job Site City: los alamos  
 Job Site County: Los Alamos

3) Contracting Agency Name (Department or Bureau): Los Alamos County  
 Contracting Agency Contact's Name: Emmanuel Abeyta  
 Contracting Agency Contact's Phone: (505) 795-5229 Ext.

4) Estimated Contract Award Date: 04/15/2024

5) Estimated total project cost: \$150,000.00  
 a. Are any federal funds involved?: No  
 b. Does this project involve a building?: No  
 c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No  
 d. Are there any other Public Works Wage Decisions related to this project?: No  
 e. What is the ultimate purpose or functional use of the construction once it is completed?: The work will be to improve .5-mile (2,640feet) section of trail to an ADA Certified trail using standards for trail design.

6) Classifications of Construction:

Classification Type and Cost Total	Description
<b>Highway/Utilities (A)</b> <b>Cost: \$150,000.00</b>	The work will be to improve .5-mile (2,640 feet) section of trail to an ADA Certified trail using standards for trail design and construction that meets the requirements for paved trails as outlined in the Americans with Disabilities Act 1994 and 2010. The trail will begin at the Los Alamos Nature Center and head south to the rear of the Walkup Aquatic Center then head westerly to the northern rear of the Walkup Center and follow the existing trail to create a loop that returns to the Nature Center. The trail is part of the County's continuing effort to create an inclusive and inviting access to all members of the community. The main goal is to reduce any barriers that individuals with disabilities may encounter when utilizing the Kinnikinnik Park Trail



**TYPE “A” – STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING**

**Effective January 1, 2024**

<b>Trade Classification</b>	<b>Base Rate</b>	<b>Fringe Rate</b>
Bricklayer/Block layer/Stonemason	27.03	10.99
Bricklayer/ Block layer/Stonemason – Curry, DeBaca, Quay and Roosevelt counties	23.10	8.89
Bricklayer/ Block layer/Stonemason – Dona Ana, Otero, Eddie, and Lea counties	29.56	14.10
Carpenter/Lather	29.11	12.79
Carpenter- Los Alamos county	33.18	13.58
Cement Mason	19.34	7.41
Drywall Finisher/Taper	26.40	8.86
Glazier/Fabricator	21.75	7.10
Ironworker Journeyman	28.49	18.71
Probationary Ironworker	22.79	18.71
Painter- Commercial	21.00	5.75
Paper Hanger	21.00	5.75
Plumber/Pipefitter	40.74	15.90
<b>Electricians- Outside Classifications: Zone 1</b>		
Ground man	26.32	12.79
Equipment Operator	37.76	17.13
Lineman	47.70	19.92
Journeyman technician	44.42	19.10
Cable Splicer	48.87	20.22
<b>Electricians-Outside Classifications: Zone 2</b>		
Ground man	26.32	12.79
Equipment Operator	37.76	17.13
Lineman	47.70	19.92
Journeyman technician	44.42	19.10

Cable Splicer	48.87	20.22
<b>Electricians-Outside Classifications: Los Alamos county</b>		
Ground man	27.07	12.81
Equipment Operator	38.85	17.17
Lineman/technician	48.95	20.24
Journeyman technician	45.70	19.42
Cable Splicer	53.75	21.44
<b>Laborers</b>		
Group I – unskilled	16.60	7.30
Group II – semiskilled	17.60	7.30
Group III – skilled	18.10	7.30
Group IV – specialty	18.60	7.30
<b>Operators</b>		
Group I	22.42	6.79
Group II	23.50	6.79
Group III	23.61	6.79
Group IV	24.09	6.79
Group V	24.21	6.79
Group VI	24.43	6.79
Group VII	24.62	6.79
Group VIII	25.33	6.79
Group IX	33.56	6.79
Group X	37.43	6.79
<b>Soft Floor Layers</b>	21.00	9.20
<b>Truck Drivers</b>		
Group I-IX	19.75	9.15

**NOTE: All contractors are required to pay SUBSISTENCE, ZONE AND INCENTIVE PAY according to the particular trade. Details are located in a PDF attachment at [WWW.DWS.STATE.NM.US](http://WWW.DWS.STATE.NM.US). Search Labor Relations/Labor Information/Public Works/Prevailing Wage Rates.**

For more information about the Subsistence, Zone, and Incentive Pay rates, or to file a wage claim, contact the Labor Relations Division at (505) 841-4400 or visit us online at [www.dws.state.nm.us](http://www.dws.state.nm.us).



## 2024 SUBSISTENCE, ZONE, AND INCENTIVE PAY RATES

All contractors are required to pay subsistence, zone, and incentive pay according to the particular trade

### Asbestos workers or heat and frost insulators

- (1) Zone 1 shall consist of the area lying within the city limits of a circle whose radius is 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$0.00 per day.
- (2) Zone 2 shall consist of Los Alamos county - \$40.00 per day if not furnished a company owned vehicle.
- (3) Zone 3 shall consist of the area lying beyond a circle whose radius is over 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$85.00 per day.

### Boilermakers/Blacksmiths

- (1) Per diem is calculated from city hall of the dispatch city or the employee's home address, whichever is closer to the job location,
- (2) Per diem is \$55.00 per day for travel between 70 and 120 miles and \$85.00 per day for travel over 120 miles.

### Bricklayers

- (1) For Albuquerque area contractors, the starting point shall be at the intersection of I-40 and I-25 and shall continue to the job site. All other areas, the starting point shall be the employer's main office address.
- (2) Between 50 and 75 miles from the starting point, \$35.00 per day.
- (3) 76 or more miles from the starting point, \$55.00 per day.
- (4) All covered refractory work over 75 miles from the intersection of I-40 and I-25, \$80.00 per day.

### Cement Masons

- (1) For employees who travel to Santa Fe from Albuquerque or vice versa, \$20.00 per day.
- (2) In all other work performed more than 50 miles from the employer's main office, \$50.00 per day.
- (3) Mutually agreed-upon lodging or transportation paid for by the employer will substitute for subsistence pay.



### Drywall Finishers and Tapers

- (1) \$40.00 per day (\$5.00 per hour for eight hours work) for over 60 miles over the most typically traveled route, or other mutually agreed upon suitable lodging or transportation.
- (2) If an employee has worked the full week on four 10-hour days, the employee shall be paid the full week of per diem of \$200.00.
- (3) Special provision for Santa Fe and Albuquerque: Employees who travel between Santa Fe and Albuquerque will be paid \$15.00 per day or other mutually agreed upon lodging or transportation.

### Electricians (inside classifications)

- (1) For Albuquerque only:
  - (a) Zone 1 is classified as being within 40 miles from the main post office.
  - (b) Zone 2 shall extend up to 10 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.
  - (c) Zone 3 shall extend up to 20 miles beyond zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.
  - (d) Zone 4 shall extend 20 miles or more beyond zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.
- (2) For Los Alamos County only: work performed within the county shall be compensated fifteen percent above the zone 1 journeyman rate.
- (3) For all other counties:
  - (a) Zone 1 is:
    - (i) within six miles from the main post office for Raton, Tucumcari, and Farmington.
    - (ii) within eight miles from the main post office for Las Vegas.
    - (iii) within ten miles from the main post office for Santa Fe and Gallup.
    - (iv) within twelve miles from the main post office for Belen, Carrizozo, Clovis, Los Lunas, Portales, Roswell, Ruidoso, Artesia, Carlsbad, Hobbs, and Lovington.
    - (v) within fourteen miles from the main post office for Espanola.
  - (b) Zone 2 shall extend up to 20 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.



- (c) Zone 3 shall extend up to 30 miles from zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.
- (d) Zone 4 shall extend beyond 30 miles from zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.
- (4) When workers are ordered to report to the shop and then to the job and from job to job, and return to the shop, they shall be paid for the time spent traveling and shall be furnished transportation by the Employer. Under these conditions the Zone 1 rate and any applicable overtime will be paid.

### Electricians (outside classification)

Zone 2: \$50.00 per diem to be paid for work 30 miles outside of Santa Fe and 60 miles outside of Albuquerque. No per diem in Los Alamos County.

### Glaziers

- (1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$20.00 per night for food.
- (2) Employees required to use a personal vehicle for travel to a jobsite beyond a 30 mile radius of the main post office in town where the employer's shop is located shall be compensated at the current Internal Revenue Service (IRS) rate for actual mileage incurred beyond the 30 mile radius, plus their regular rate of pay for travel time.

### Ironworkers

- (1) Travel more than 50 miles from the interchange of Interstate 40 and Interstate 25 or from the employee's home should be paid at \$9.00 per hour.
- (2) If travel is within Santa Fe County, travel time shall be paid at \$3.00 per hour.

### Laborers

- (1) Type A:
  - (a) Work travel between 50 and 85 miles from the employer's primary address should be compensated at \$3.50 per hour.
  - (b) Work travel 86 miles or greater from the employer's primary address should be compensated at \$5.00 per hour.



- (2) Types B and C:
  - (a) Work travel over 70 miles from the union halls of Albuquerque, Espanola, Farmington, or Las Cruces shall be paid at \$7.00 per hour in travel pay, not to exceed 10 hours per day;
  - (b) If an overnight stay is necessary, the employer shall pay \$40.00 per day for meals, in addition to travel pay.
- (3) Type H – no zone subsistence pay:
- (4) If an employer provides the employee transportation and mutually agreeable, suitable lodging with no more than two people in a room in areas where overnight stays are necessary, subsistence rates do not apply.

### Millwrights

- (1) All zone pay shall be calculated from the address of the city hall of the respective dispatch point.
- (2) Zone 1: Work traveled up to 45 miles from the city hall of the respective dispatch points is a free zone.
- (3) Zone 2: Work traveled between 45 miles and 100 miles shall be compensated at \$4.00 per hour above base wage.
- (4) Zone 3: Work traveled 101 miles or more shall be compensated at \$6.00 per hour above base wage.
- (5) If employer fails to provide suitable lodging, employer shall pay \$110.00 per diem.
- (6) If an employee’s principal place of residence is within 45 road miles from the project, no subsistence or travel time shall be paid.

### Operating Engineers

- (1) Type A operators should be compensated for zone and subsistence as follows:
  - (a) Work travel between 50 and 85 miles from the interchange of Interstate 25 and Interstate 40 in Albuquerque, or from the Farmington City Hall in Farmington, should be compensated at \$2.50 per hour.
  - (b) Work travel 86 miles or more from the interchange of Interstate 25 and Interstate 40 in Albuquerque or from the Farmington City Hall in Farmington, should be compensated at \$4.00 per hour.
- (2) Type B and C operators:
  - (a) Base points for operators are 30 miles and beyond:
    - (i) Bernalillo county courthouse in Albuquerque;
    - (ii) State capital building in Santa Fe;
    - (iii) City hall in Farmington.



- (b) Zone and subsistence for Albuquerque, Santa Fe, and Farmington are as follows:
    - (i) work travel between 30 and 50 miles from the base point compensated at \$20.00 per day;
    - (ii) work travel between 51 and 100 miles from the base point compensated at \$50.00 per day;
    - (iii) work travel over 100 miles from the base point that involves an overnight stay compensated at \$100.00 per day.
  - (c) Zone and subsistence for Los Alamos county, \$100.00 per day. This takes precedence over the 50 mile radius for Santa Fe zone and subsistence.
  - (d) If an employer provides the employee transportation and mutually agreeable suitable lodging in area where overnight stays are necessary, subsistence rates do not apply.
- (3) Type H operators are not eligible for zone and subsistence pay.

### Painters

- (1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses.
- (2) When out-of-town travel is required and employer and employer does not provide lodging, employer shall pay \$100 per day for expenses, plus their regular rate of pay.
- (3) Employees required to use a personal vehicle for travel to a jobsite beyond a 60-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 60-mile radius, plus their regular rate of pay for travel time.
- (4) Employer shall furnish transportation or gasoline for all work performed beyond the 30-mile radius that encompasses the free cities of Albuquerque, Santa Fe, and Belen.

### Paper hangers

- (1) Zone 1: Base pay for an area within a 30 mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone I.
- (2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.



- (3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$2.50 per hour above base pay.
- (4) When the employee is required to stay overnight, the employer should provide and pay for suitable lodging.
- (5) Employer will furnish transportation or gasoline for all work performed beyond the 30 mile radius that encompasses the free cities of Albuquerque, Santa Fe or Belen.

### Plasterers

- (1) Employees who travel from Albuquerque to Santa Fe should be compensated at \$20.00 per day.
- (2) Except for employees who travel from Santa Fe to Albuquerque, work travel 75 miles or more from the employer's office over the most typically traveled route should be compensated at \$5.00 per hour and capped at \$40.00 per day.

### Plumbers and pipefitters

- (1) Work travel for 90 or more miles from an employee's primary residence, and involving an overnight stay, should be compensated at \$80.00 per day.
- (2) No zone or subsistence pay is required should the employer elect to cover the room cost.

### Roofers

Work travel requiring an overnight stay should be compensated at \$35.00 per day for food. Employer should provide and pay for a suitable hotel. When employees are assigned to jobs located 60 or more miles from the employer's place of business, transportation to and from the job site must be provided.

### Sheet metal workers

- (1) Work travel 90 miles or more from contractor's home base and employee's home, should be paid at \$120.00 per day subsistence pay plus base and fringe, regardless of county.
- (2) Los Alamos county: \$2.00 per hour incentive pay plus base and fringe.
- (3) Workers living 60 or more miles from a San Juan county job site receive \$3.00 per hour subsistence pay plus base and fringe.



### Soft floor layer

- (1) Zone 1: Base pay for an area within a 30 mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone I.
- (2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.
- (3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$3.13 per hour above base pay.
- (4) Employer will furnish transportation or gasoline for all work performed beyond the 30-mile radius that encompasses the free cities of Albuquerque, Santa Fe, or Belen.
- (5) When the employee is directed to report to a job site and the distance to the job site requires the employee to stay out of town overnight, the employer shall provide housing arrangements for the affected employees.

### Sprinkler fitters

- (1) Work travel between 60 and 80 miles from the employee's primary residence should be compensated at \$23.00 per day.
- (2) Work travel between 81 and 100 miles from the employee's primary residence should be compensated at \$33.00 per day.
- (3) Work travel of 101 miles or more from the employee's primary residence should be compensated at \$125.00 per day.
- (4) No zone or subsistence pay shall be paid when the employer provides daily transportation and the employee elects to travel back and forth from home.

### 3.3.3 Federal Award SLFRF0126 Information

**Notice to all potential bidders: This project is being supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of New Mexico by the U.S. Department of the Treasury. If requirements in this document differ from those provided below, the Federal requirements will prevail.**

The following Federal requirements apply to this procurement:

- I. Domestic Preference and Solid Waste Disposal Act:
  - a. **Domestic preference for procurements (2 CFR 200.322)** applies to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition or use of goods, product or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured product(s) is preferred for this project.
  - b. Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- II. **DAVIS-BACON AND RELATED ACT PROVISIONS:** The higher wage rates shall govern in the event of a discrepancy between the minimum wage rates in the Wage Decision of the Department of Workforce Solutions (DWS) and the U.S. Department of Labor Wage Decision applicable to this Contract.

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5

- 1) Minimum wages (29 CFR 5.5)
  - a) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash

equivalents thereof due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or Incorporated County of Los Alamos IFB24-238 - Kinnikinnik Park programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH—1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- b) (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
  - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (ii) The classification is utilized in the area by the construction industry; and
  - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S.

Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
  - (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
  - c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - d) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- 2) Withholding (29 CFR 5.5)
- The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take

such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3) Payrolls and basic records (29 CFR 5.5)

- a) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH—347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the New Mexico Economic Development Department, the US Department of the Treasury or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (a) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete
- (b) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;
- (c) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH—347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, New Mexico Economic Development Department, US Department of the Treasury, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the US Department of the Treasury may, after written notice to the contractor, the contracting agency or the New Mexico Economic Development Department, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- 4) Apprentices and trainees (29 CFR 5.5)
  - a) Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such

an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL)

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly

rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

**5) Davis-Bacon Wage Rate Decision.**

The Davis-Bacon Wage rate for this project is as follows:

"General Decision Number: NM20230037 01/06/2023

Superseded General Decision Number: NM20220037

State: New Mexico

Construction Type: Highway

Counties: Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, Rio Arriba, San Miguel, Taos and Union Counties in New Mexico.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li> </ul>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date  
 0 01/06/2023

SUNM2011-005 08/26/2011

	Rates	Fringes
CARPENTER (Includes Form Work)		
Cibola, Ria Arriba.....	\$ 14.27 **	\$ 0.44
Guadalupe, Los Alamos, Colfax, Harding, Guay, Taos, Union.....	\$ 13.84 **	\$ 0.44
McKinley.....	\$ 13.51 **	\$ 0.44
Mora.....	\$ 14.44 **	\$ 0.44
San Miguel.....	\$ 13.93 **	\$ 0.44
CEMENT MASON/CONCRETE FINISHER		
Cibola.....	\$ 15.58 **	\$ 0.26
Colfax, Guadalupe, Harding, Los Alamos, McKinley, mora, Quay, Union.	\$ 15.07 **	\$ 0.26
Rio Arriba, San Miguel.....	\$ 15.58 **	\$ 1.54
Taos.....	\$ 14.98 **	\$ 0.26
ELECTRICIAN (Including Traffic Signal Installation).....	\$24.66	\$ 8.56
HIGHWAY/PARKING LOT STRIPING: Includes Highway Line/Parking Lot Line Striping and Line Striping Truck Driver		
Cibola.....	\$ 13.66 **	\$ 0.35
Colfax, Guadalupe, Harding, Los Alamos, Mora, Rio Arriba, Taos, Union.....	\$ 15.16 **	\$ 0.35
McKinley.....	\$ 14.55 **	\$ 0.35
Quay.....	\$16.37	\$ 0.26
San Miguel.....	\$ 15.31 **	\$ 0.35

INSTALLER: (Guardrails,		
Handrails and Signs)		
Cibola.....	\$ 12.35 **	\$ 0.35
Colfax.....	\$ 11.68 **	\$ 0.35
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$ 12.37 **	\$ 0.35
Quay.....	\$ 12.00 **	\$ 0.35
IRONWORKER, REINFORCING		
Cibola.....	\$23.05	\$ 1.54
Colfax, Guadalupe,		
Harding, Los Alamos, Mora,		
Quay, San Miguel, Taos,		
Union.....	\$21.57	\$ 4.80
McKinley.....	\$22.44	\$ 5.85
Rio Arriba.....	\$21.98	\$ 6.03
IRONWORKER, STRUCTURAL.....	\$21.77	\$ 6.03
LABORER		
Asphalt Raker.....	\$ 14.39 **	\$ 0.35
Common or General		
Cibola.....	\$ 12.27 **	\$ 0.35
Colfax.....	\$ 9.60 **	\$ 0.35
Guadalupe, Los Alamos.....	\$ 11.83 **	\$ 0.35
Harding.....	\$ 11.57 **	\$ 0.35
McKinley.....	\$ 11.22 **	\$ 0.35
Mora.....	\$ 11.34 **	\$ 0.35
Quay.....	\$ 12.15 **	\$ 0.35
Rio Arriba.....	\$ 12.28 **	\$ 0.35
San Miguel.....	\$ 12.56 **	\$ 0.35
Taos.....	\$ 12.61 **	\$ 0.35
Union.....	\$ 10.89 **	\$ 0.35
Flagger/Cone Setter		
Cibola.....	\$ 13.14 **	\$ 0.35
Colfax, Guadalupe,		

Harding, Los Alamos,		
Mora, Rio Arriba, San		
Miguel, Taos, Union.....	\$ 12.15 **	\$ 0.99
McKinley.....	\$ 11.66 **	\$ 0.35
Quay.....	\$ 12.21 **	\$ 0.26
Grade Checker.....	\$ 14.67 **	\$ 1.60
MasonTender-		
Brick/Cement/Concrete		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Quay, San Miguel, Taos,		
Union.....	\$ 13.04 **	\$ 1.78
Rio Arriba.....	\$ 13.33 **	\$ 1.97
Pipelayer.....	\$16.99	\$ 0.35
PAINTER (Brush, Roller and		
Spray)		
Cibola, Colfax, Guadalupe,		
Harding, Los Alamos,		
McKinley, Mora, Quay, Rio		
Arriba, San Miguel, Taos,		
Union.....	\$ 15.06 **	\$ 0.44
McKinley.....	\$ 14.15 **	\$ 0.44
POWER EQUIPMENT OPERATOR:		
Asphalt/Concrete Paver,		
Laydown Machine, and Plant..	\$16.43	\$ 1.51
Backhoe/Excavator/Trackhoe		
Cibola, Colfax,		
Guadalupe, Los Alamos,		
Mora, Rio Arriba, San		
Miguel, Taos, Union.....	\$16.80	\$ 0.26
Harding.....	\$20.74	\$ 0.26
McKinley.....	\$16.70	\$ 0.26
Quay.....	\$16.27	\$ 0.26
Bobcat/Skid Loader.....	\$18.06	\$ 0.26
Broom Operator.....	\$ 15.72 **	\$ 0.26
Bulldozer		

Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$ 14.97 **	\$ 0.26
Quay.....	\$ 14.89 **	\$ 0.26
Crusher.....	\$16.53	\$ 0.26
Distributor.....	\$ 14.50 **	\$ 0.26
Forklift.....	\$17.16	\$ 0.26
Grader/Blade		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		
Rio Arriba, San Miguel,		
Taos, Union.....	\$17.48	\$ 0.26
Quay.....	\$19.50	\$ 0.26
Loader (Front End)		
Cibola, Guadalupe, Los		
Alamos, Rio Arriba, San		
Miguel, Taos, Union.....	\$16.27	\$ 0.26
Colfax.....	\$ 15.72 **	\$ 0.26
Harding.....	\$19.37	\$ 0.26
McKinley.....	\$ 16.13 **	\$ 0.26
Mora.....	\$16.21	\$ 0.26
Quay.....	\$ 16.10 **	\$ 0.26
Mechanic.....	\$17.48	\$ 0.26
Milling Machine.....	\$16.89	\$ 0.26
Oiler.....	\$ 14.29 **	\$ 0.26
Piledriver		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, Mora, Rio Arriba,		
San Miguel, Taos, Union....	\$ 15.87 **	\$ 0.26
McKinley.....	\$ 14.95 **	\$ 0.26
Quay.....	\$ 15.99 **	\$ 0.26
Roller (Asphalt and Dirt)		
Cibola, Colfax,		
Guadalupe, Harding, Los		
Alamos, McKinley, Mora,		

Rio Arriba, San Miguel, Taos, Union.....	\$ 14.39 **	\$ 0.98
McKinley.....	\$16.49	\$ 0.26
Quay.....	\$ 14.74 **	\$ 0.26
Rotomill.....	\$ 15.80 **	\$ 0.26
Scraper.....	\$ 15.91 **	\$ 0.26
Screed.....	\$ 15.96 **	\$ 0.26
Tractor.....	\$16.84	\$ 0.26
Trencher.....	\$16.26	\$ 0.26
TRUCK DRIVER		
Distributor.....	\$ 13.56 **	\$ 0.26
Dump Truck		
Cibola, Guadalupe, Harding, Los Alamos, Mora, Rio Arriba, Taos, Union.....	\$ 14.75 **	\$ 0.26
Colfax, San Miguel.....	\$ 13.24 **	\$ 0.26
McKinley.....	\$ 13.15 **	\$ 0.26
Quay.....	\$ 15.20 **	\$ 0.26
Flatbed Truck		
Cibola.....	\$ 12.71 **	\$ 0.26
Colfax, Guadalupe, Harding, Los Alamos, Mora, Taos, Union.....	\$ 13.27 **	\$ 0.26
McKinley.....	\$ 13.55 **	\$ 0.26
Quay, San Miguel.....	\$ 13.30 **	\$ 0.26
Rio Arriba.....	\$ 12.95 **	\$ 0.26
Pickup and Pilot Car.....	\$ 12.74 **	\$ 0.26
Semi-Trailer Truck.....	\$16.58	\$ 0.26
Tractor Haul Truck.....	\$ 14.00 **	
Water Truck.....	\$ 13.13 **	\$ 0.26

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four-letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example:

PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

- 6) Disputes concerning labor standards.  
As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- 7) Certification of eligibility (29 CFR 5.5)
  - a) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**III. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - (Executive Orders 12549 and 12689 and 2 CFR Part 180** By submission of its bid, contractor affirms that it does not have any active exclusions (i.e., suspensions, debarments) imposed by a federal agency.

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring US Department of the Treasury approval or that is estimated to cost \$25,000 or more - as defined in 2 CFR Parts 180, 2 CFR 180.220.

- 1) Instructions for Certification - First Tier Participants:
  - a) By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
  - b) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.
  - c) The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

- d) The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.
- e) The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f) The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.
- g) The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.
- h) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.
- i) Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j) Except for transactions authorized under paragraph (§ of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

- 2) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - First Tier Participants:
- (a) The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
    - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.
    - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;
    - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and
    - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).
  - (b) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.
- 3) Instructions for Certification - Lower Tier Participants:  
(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Part 180. 2 CFR 180.220.
- (a) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
  - (b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
  - (c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.
  - (d) The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 — 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and

a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- (e) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220.
  - (f) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.
  - (g) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - (h) Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.
- 4) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Participants:
- a) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:
    - (a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;
- 5) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

#### IV. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

- 1) The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
  - (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 2) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- 3) The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure.)

Approved by OMB  
0348-0046

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: _____	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known: _____	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Entity</b> (if individual, last name, first name, MI):  (attach Continuation Sheet(s) SF-LLA, if necessary)	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):  (attach Continuation Sheet(s) SF-LLA, if necessary)	
<b>11. Amount of Payment (check all that apply):</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment (check all that apply):</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<b>12. Form of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____	<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b>   (attach Continuation Sheet(s) SF-LLA, if necessary)	
<b>15. Continuation Sheet(s) SF-LLA attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>16.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
 (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**V. Appendix A of the Title VI Assurances**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

- 1) Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time-to- time, (hereinafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of this contract.
- 2) Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.

**VI. Disposal of Excess Material**

All excess material generated from the project is the property of the Contractor and it is the responsibility of the Contractor to dispose of the material. Los Alamos County will allow stockpiling of the material within the designated staging areas under the terms of the Staging Area Agreement during the project. Prior to Final Completion the Contractor shall haul off site all remaining excess material to a designated location of their choice. Disposal and hauling of the material out of Los Alamos County is incidental to the work and no additional payment will be made by the County.

All other provisions of the Solicitation Documents shall remain unchanged. This Addendum No. 1 is hereby made a part of the Solicitation Documents to the same extent as those provisions contained in the original documents and all itemized listings thereof.

Each Bidder is requested to acknowledge receipt of this Addendum No. 1 with the Bid Forms.

I hereby acknowledge receipt of this Addendum No.1.

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Signed	Print Name	Date
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Title	Company
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### 3.4 TECHNICAL SPECIFICATIONS

Technical specifications can be found in the following links:

US Forest Service - <https://www.fs.usda.gov/managing-land/trails/trail-management-tools/trailplans>

Accessibility Guidebook for Outdoor Recreation and Trails -

<https://www.fs.usda.gov/sites/default/files/Accessibility-Guide-Book.pdf>

Forest Service Trail Accessibility Guidelines -

<https://www.fs.usda.gov/sites/default/files/FSTAG-2013-Update.pdf> US Forest

Service Outdoor Accessibility Guide -

[https://www.fs.usda.gov/recreation/programs/accessibility/FSORAG\\_2013%20Update.1.pdf](https://www.fs.usda.gov/recreation/programs/accessibility/FSORAG_2013%20Update.1.pdf)



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